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Tuesday, 29 June 2004, 10.30 a.m.

New York

President:	Mr. Baja	(Philippines)
Members:	Algeria	Mr. Baali
	Angola	Mr. Lucas
	Benin	Mr. Zinsou
	Brazil	Mr. Sardenberg
	Chile	Mr. Muñoz
	China	Mr. Cheng Jingye
	France	Mr. Duclos
	Germany	Mr. Pleuger
	Pakistan	Mr. Khalid
	Romania	Mr. Dumitru
	Russian Federation	Mr. Karev
	Spain	Mr. Yáñez-Barnuevo
	United Kingdom of Great Britain and Northern Ireland	Mr. Thomson
	United States of America	Mr. Rostow

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter dated 21 May 2004 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2004/420)

Letter dated 30 April 2004 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-40676 (E)

Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council (S/2004/341)

The meeting was called to order at 10.30 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter dated 21 May 2004 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2004/420)

Letter dated 30 April 2004 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council (S/2004/341)

The President: I should like to inform the Council that I have received letters from the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia and Montenegro in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned countries took the seats reserved for them at the side of the Council Chamber.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Judge Theodor Meron, President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

It is so decided.

I invite Judge Meron to take a seat at the Council table.

In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council decides to extend an invitation under rule 39 of its provisional rules of procedure to Judge Erik Møse, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994.

It is so decided.

I invite Judge Møse to take a seat at the Council table.

In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Ms. Carla Del Ponte, Prosecutor of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

It is so decided.

I invite Prosecutor Del Ponte to take a seat at the Council table.

In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994.

It is so decided.

I invite Prosecutor Jallow to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them documents S/2004/420 and S/2004/341, which contain letters dated 21 May 2004 and 30 April 2004 from the President of the International Tribunal for the Former Yugoslavia and from the President of the International Criminal Tribunal for Rwanda, respectively.

At this meeting, the Security Council will hear briefings by the President and the Prosecutor of the International Tribunal for the Former Yugoslavia, as well as by the President and Prosecutor of the International Criminal Tribunal for Rwanda.

At the end of those briefings, I will give the floor to Council members who wish to make comments or ask questions.

As there is no list of speakers for Council members, I would like to invite them to indicate to the Secretariat if they wish to take the floor.

I now give the floor to Judge Meron, President of the International Tribunal for the Former Yugoslavia.

Judge Meron: It is a great honour for me once again to address the Council to present the first report of the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I am particularly pleased to address the Council during the Presidency of Ambassador Baja of the Philippines.

It is now slightly over eight months since I addressed the Council to deliver the Tribunal's annual report on 9 October 2003 under article 34 of the Statute of the Tribunal. In the meantime, the Council, through paragraph 6 of resolution 1534 (2004), asked the Tribunal to provide, by 31 May 2004 and every six months thereafter,

> "assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the Completion Strategy of the Tribunal, explaining what measures have been taken to implement the Completion Strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions ..."

I was very pleased to transmit my assessments and those of the Prosecutor to the Council on 21 May 2004, and I am honoured to be able to address the Council on the subject in person today.

It is now just over nine years since the first accused, Dusko Tadic, was transferred to the Tribunal on 24 April 1995. In that period, the Tribunal has tried 35 accused to final judgement in a total of 17 trials. Seventeen accused pleaded guilty and were sentenced during that period, most recently Milan Babic, who pleaded guilty in January 2004 and whose sentence was rendered this morning at The Hague.

A further eight accused are currently being tried in six separate cases before the Trial Chambers. Two of those cases are expected to conclude soon. The trial judgement in the case of *Brdanin* is being written and is expected to be rendered on 31 August of this year. Final submissions in the case of *Strugar* are expected to be made in September of this year, which could lead to the rendering of the judgement as early as October.

Accordingly, as of today, the Tribunal has either completed or is holding trials or, in the case of guilty pleas, sentencing proceedings involving 59 defendants. There are currently 33 accused in detention or on provisional release who are awaiting trial.

The Appeals Chamber, for its own part, has also been productive since it was first seized of an appellate matter in 1995. If we take appeals from the ICTY and

the ICTR together, the Appeals Chamber has decided 20 appeals from judgements rendered by Trial Chambers, including two in the first half of this year, together with 236 interlocutory appeals, 17 requests for review, and six contempt proceedings.

The Tribunal's current productivity is also very high. The Trial Chambers are now operating at maximum capacity, with six cases currently in trial or at the judgement-writing phase. The Appeals Chamber has heard six appeals from judgement since October 2003, and the judgements in those cases are currently being drafted. Three further appeal hearings are planned for this year. The number of appeals from judgement and interlocutory appeals before the Appeals Chamber more than doubled between May 2003 and May 2004.

The Judges of the Tribunal are committed to sustaining that level of productivity throughout the remainder of the life of the Tribunal. We are taking, or have taken, several additional steps that will help to ensure that the Tribunal's mandate is carried out within the completion strategy deadlines. These steps have been summarized in the assessments submitted to the Council; I do not propose to restate them in detail.

First, the Judges amended rule 28(A) of the rules of procedure and evidence to comply with the requirement of seniority in resolution 1534 (2004). Secondly, Trial Chambers continue to operate at full capacity, with six cases simultaneously in trial or at the judgement-writing stage; thirdly, the Appeals Chamber has made efforts to make interlocutory appeals more effective by allowing such appeals from both the ICTY and ICTR only if the Trial Chamber certifies that the appeal involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial and for which an immediate resolution by the Appeals Chamber may materially advance the proceedings.

Fourthly, the Appeals Chamber is reducing the length of its appeals judgements and limiting repetition by invoking its own accumulated jurisprudence on questions that have been previously resolved. And fifthly, the Working Group on Scheduling of Cases, which I established, continues to assist in forecasting the resources and measures needed to achieve the completion strategy and in ensuring that new cases are ready for trial whenever a pending case is concluded.

One additional measure was taken earlier this month that is therefore not reflected in my assessments dated 21 May. I refer to an amendment to rule 11 bis of the rules of procedure and evidence, which is the rule that authorizes a Trial Chamber, either *proprio motu* or upon a motion by the Prosecutor, to refer the case of an individual already indicted by the Tribunal to a competent national jurisdiction. The Judges of the Tribunal, by a unanimous vote, have amended that rule in two important ways.

The first amendment concerns the domestic jurisdictions to which cases involving indicted persons may be transferred. The rule formerly permitted a Trial Chamber to refer a case only to the State in which the accused was arrested or in whose territory the alleged crime was committed. The rule now contains a third option: referral to a State having jurisdiction and being willing and adequately prepared to accept such a case. That amendment expands the range of nations that could potentially receive cases from the Tribunal beyond States of the region. This is particularly important should some courts in the former Yugoslavia continue to suffer from deficiencies in their ability to conduct trials in accordance with fundamental fairness and due process.

The second change amends the criteria to be considered by the Trial Chamber in deciding whether to refer a case to a domestic jurisdiction. The rule now provides that the Trial Chamber may order a referral only after being satisfied that the accused will receive a fair trial and that the death penalty will not be imposed or carried out. That change makes explicit a requirement that was implicit in the prior version of the rule, and ensures that cases will not be referred to jurisdictions that do not observe the minimum guarantees of procedural fairness and international human rights. The rule 11 bis amendments also reflect similar initiatives taken in rule 11 bis of the ICTR.

As the Council recognized in resolutions 1503 (2003) and 1534 (2004), the ability to refer cases of intermediate and lower-rank accused to domestic jurisdictions, including the planned War Crimes Chamber within the State Court of Bosnia and Herzegovina, is an essential prerequisite to the fulfilment of the completion strategy. But the referral of cases depends on the presence of propitious conditions, many of which are outside the Tribunal's control. The most important condition is the presence of domestic institutions willing and prepared to try

cases involving allegations of serious violations of international humanitarian law in a manner that is credible, fair, and in accordance with international legal norms. Tribunals established by the United Nations can transfer cases only if they are assured that international standards are met, not only in terms of the conduct of trials, but also in terms of the condition of detention facilities and the treatment of detainees.

It has been reported that thought is being given to requesting a Trial Chamber to decide motions to transfer cases under rule 11 bis even before such conditions have been met, and thus before the accused can, in fact, be transferred to the custody of another State. I believe that it is not helpful to consider transferring a case before the national jurisdiction is truly capable of living up to international standards for trial and for detention. A decision by a Trial Chamber to remove an indictee from the Tribunal's docket in such circumstances could present serious human rights problems for the accused, who would then be in a state of "legal limbo". The accused would have left behind his day in court at The Hague but could not yet be transferred to the custody of national authorities. Any such initiatives, prematurely taken, could conflict with international norms of due process and human rights.

The Tribunal is committed to supporting the achievement of credible and fair war crimes trials in all States of the former Yugoslavia. As far as the War Crimes Chamber in Sarajevo is concerned, I am confident that it will fully meet international due process standards. I am very grateful to the members of the donor community that attended the donors' conference held at the Tribunal at The Hague on 30 October 2003. I am also grateful to the Security Council for recognizing, in resolution 1534 (2004), that further support for the Chamber is essential to its success. During my visit to Sarajevo last week, I held talks on this subject with the High Representative, Lord Ashdown, his Senior Deputy, Ambassador Fassier, and the President of the State Court of Bosnia and Herzegovina, Judge Raguz. I was informed that despite some delays in implementation, courtroom facilities will be available to begin trials in January 2005. However, with regard to detention facilities, which are essential for the transfer of accused from The Hague and thus for the holding of trials, the prospects are less reassuring. While the Office of the High Representative is pursuing various options to obtain temporary detention facilities meeting international standards, that will require the support of the international community.

At the moment, there are still doubts that credible war crimes trials can take place in the domestic jurisdictions of Croatia or Serbia and Montenegro.

With regard to Croatia, the European Commission recently concluded that a single standard of criminal responsibility is not yet applied equally to all accused charged with war crimes before Croatian courts. The Mission to Croatia of the Organization for Security and Cooperation in Europe (OSCE), which has monitored several war crimes trials in Croatian courts throughout 2002, 2003 and the early months of 2004, reported that there are still significant concerns about the capacity and impartiality of parts of the Croatian judiciary. In a report dated 22 June 2004, the OSCE mission to Croatia reported that its observations through trial monitoring "suggest that there is a considerable lack of impartiality among parts of the judiciary". A second report issued the same day stated that "the national origin of defendants and possibly even more importantly that of victims continued to affect war crime proceedings in 2003".

However, let me emphasize that the overall cooperation of Croatia with the Tribunal has improved significantly. Although the failure to arrest the fugitive Ante Gotovina is still a matter of grave concern, I view the progress that has been made in Croatia's relationship with the Tribunal with great satisfaction. As I stated to the Rapporteur Group for Democratic Stability of the Committee of Ministers of the Council of Europe on 7 May 2004,

> "Croatian authorities have recognized the need to enhance the capabilities of their national judiciary for purposes of handling cases which may be referred to its courts by the Tribunal."

The European Commission has similarly recognized that the Croatian authorities appear determined to improve conditions for prosecution of alleged war criminals in domestic courts. The OSCE Mission to Croatia likewise reported "improving conditions for the conduct of domestic war crime trials" and noted "growing recognition among the public of the importance of even-handed prosecution of war crimes". The OSCE Mission also stated that

> "there is no reason to believe that the Croatian judiciary would not be able to handle a limited

number of cases in a fair and efficient way, particularly if assigned to those judges and prosecutors who have already received special training and resources".

On that front, the Tribunal has been engaged in several expertise-sharing initiatives with Croatian authorities with a view to preparing the national judicial system for the referral of cases from the ICTY.

Therefore, while progress is still needed, there is cause for optimism with regard to the potential transfer of cases to certain courts in Croatia that have received — or will have received — special training and resources for the trial of war crimes cases.

The likelihood of referring cases to the courts of Serbia and Montenegro is diminished by the poor record of cooperation between that State and the Tribunal in recent months. The Government of Serbia and Montenegro appears to have taken little or no action with regard to four high-ranking fugitives who were indicted by the Tribunal last fall and have remained at large for over six months. The Government has also failed to respond to requests by our Registrar for explanation of its default in arresting individuals subject to Tribunal arrest warrants.

Moreover, as indicated in my letter to the President of the Security Council of 4 May (S/2004/353) and the Prosecutor's report dated 29 April, contained in the annex to that letter, the Government of Serbia and Montenegro has failed to cooperate with the Tribunal in several other important ways.

The OSCE Mission to Serbia and Montenegro, which monitored several war crimes proceedings before domestic courts throughout 2003, concluded that the national judiciary lacks the full capacity to conduct war crimes trials in accordance with universally recognized standards.

Nevertheless, the Tribunal remains committed to assisting the Government of Serbia and Montenegro in laying the groundwork for fair and effective war crimes trials in the courts of Serbia and Montenegro. The Tribunal recently hosted a visit, organized by the United Nations Development Programme, by seven judges of the newly established Department for War Crimes at the Belgrade District Court, designed to transfer knowledge and experience from Tribunal personnel to the members of the Court.

In addition to the requirement of a fair trial, rule 11 bis continues to require the Trial Chamber to consider the gravity of the crimes alleged and the level of responsibility of the accused before referring a case to a national jurisdiction. Those requirements reflect the Security Council's sensible distinction, expressed in resolutions 1503 (2003) and 1534 (2004), between the most senior leaders suspected of being most responsible for crimes within the jurisdiction of the Tribunal, who are to be tried at The Hague, and the accused of intermediate and lower rank, who are potential candidates for trial in the former Yugoslavia or in other competent national jurisdictions. That approach of the Council is principled and faithful to the established mission of the Tribunal as it has been historically understood.

There may be a temptation, in the light of the completion strategy deadlines, to consider the referral of cases involving even high-level accused to national jurisdictions. Much as I am committed to the goals of the completion strategy, I have serious reservations about the potential referral of cases involving senior indictees for trial in the courts of the former Yugoslavia. The entire rationale for the establishment of our Tribunal was to ensure trials for those most responsible for the heinous acts of savagery committed during the Yugoslav conflict. I do not see a rationale for distinguishing between some senior accused and other senior accused, as opposed to the Council's eminently rational distinction between senior accused and accused of intermediate or lower rank. I am concerned that selecting some senior accused for trial in domestic jurisdictions would inevitably raise questions regarding equality of treatment and the fairness of trials.

Furthermore, trials of senior accused in the former Yugoslavia would place tremendous stress on the still-fragile socio-political environment there. Questions would also be raised by victims, who routinely insist that the most senior accused be tried at The Hague. There would also be serious problems of witness protection, which are already a concern in the courts of the former Yugoslavia but would be exacerbated in the trial of a high-level defendant. When I discussed that matter with senior officials during my visit to Sarajevo last week, I was told that the national judicial system and the prosecutorial authorities are currently not able to accommodate trials of senior Tribunal indictees.

We must be careful to ensure that our dedication to completing the Tribunal's mandate on time does not detract from the Tribunal's basic purposes, which are to administer justice even-handedly and to contribute to the restoration and maintenance of peace in the region. To depart from the Tribunal's mission to try those most responsible for alleged violations of international humanitarian law risks undermining the Security Council's decision to establish the Tribunal and does a disservice to the cause of international justice. A rigid and mechanistic pursuit of the completion strategy should be avoided, as it would lead to the espousal of trials that fall short of the guarantees of international human rights of which the United Nations is — and should be — protective and proud.

I would now like to discuss the current prognosis with regard to the completion strategy and additional measures to be taken to enable the Tribunal to meet its deadlines.

When I last addressed the Council, in October, I stated that the Tribunal would be able to complete the trials of all individuals then in the custody of the Tribunal or on provisional release within the 2008 deadline. The estimate at the time was also that it might be possible to try two high-priority fugitives — Radovan Karadzic and Ratko Mladic — within the 2008 deadline, provided they were tried together and brought into custody in 2005. However, it was estimated that an additional year beyond the end of 2008 would be needed to try all indictees who were still at large as of October 2003.

Since my last address to the Council, three new indictments have been submitted and unsealed, and a fourth previously submitted indictment has been unsealed. One of those indictments has resulted in a guilty plea, while another concerns four high-level Serbian officials who are still at large. The remaining two indictments, however, have resulted in the arrival of eight senior accused at The Hague. At present, 33 accused in 17 cases are in the Tribunal's custody or on provisional release.

I am pleased to report that the Tribunal is still in a position to try all of the accused currently in custody or on provisional release before the end of 2008, including the eight new accused who recently arrived at The Hague. It may also be possible to try the fugitive Ante Gotovina within that period, provided he is transferred to The Hague before 2006 and tried together with two other co-accused.

There would be capacity to hold additional trials if persons currently in custody or on provisional release decide to plead guilty or are referred to domestic jurisdictions for trials under rule 11 bis. Since rule 11 bis referrals can be ordered by a Trial Chamber only after consideration of the facts of each particular case, it is not appropriate for me to offer predictions as to how many cases are likely to be so referred. However, as an example, if five cases of persons currently in custody or on provisional release are referred to national jurisdictions, it should be possible to hold an additional major — I emphasize major — trial before the end of 2008.

However, if any additional senior-level accused — whether they are already indicted fugitives or newly indicted accused — surrender to or are transferred to the Tribunal, it may not be possible to hold separate trials of those individuals within the 2008 deadline. Currently, there are eight indictments outstanding that have not resulted in an arrest or surrender. Those indictments involve 18 accused, including Karadzic and Mladic. My understanding is that the Prosecutor, Ms. Carla Del Ponte, may submit up to six additional indictments involving 11 suspects. It is therefore possible that additional senior-level accused — who, under existing Security Council guidelines, would not be suitable candidates for referral to national jurisdictions for trial — will arrive at the Tribunal in the future. Such arrivals would make completion of all trial work by the end of 2008 impossible, although there may be some relief to the docket through guilty pleas or referrals to national jurisdictions.

All of those predictions are necessarily tentative. It is possible that several cases might be deemed appropriate for transfer to domestic jurisdictions or that several high-level accused will choose to plead guilty. Absent such outcomes, however, the Tribunal will not be able to accommodate any additional trials beyond those of the accused who are currently in custody or on provisional release within the deadlines of the completion strategy.

I now wish to turn to the most important measures that, I believe, need to be taken in order to enable the Tribunal to maintain and improve upon its current level of productivity. Three measures deserve

special mention: staffing, election of judges and cooperation by Member States.

The completion strategy poses a particular staffing challenge — namely, that the Tribunal must ensure that it can work at full speed until the very end of its existence. The recruitment and retention of qualified and highly motivated staff are essential yet very difficult, given that other institutions can offer more senior positions and longer-term career opportunities. That problem has been exacerbated by arrears in payment of assessments by Member States, which led the Secretariat to impose a recruitment freeze on the Tribunal in May 2004.

The current financial shortfall in contributions from Member States has resulted in an unacceptable and disruptive effect on the work of the Tribunal. Unless we are able to replace staff members who occupy critical posts that are necessary to the conduct of cases, we will be forced to delay, suspend or stop trials. That would be disastrous in terms of the Tribunal's ability to remain on track with respect to the completion strategy, and it would convey the wrong message to the international community, especially the region of the former Yugoslavia. A lack of adequate funds for the Tribunal to conduct its trials would be taken as a lack of commitment on the part of the international community to the rule of law and to international justice.

The Security Council established the Tribunal with a view to ending impunity and to bringing alleged criminals to justice. Our work is now imperilled. I appeal to the Council, as the policy-making organ that decided that international justice and the rule of law must be upheld and that some of the worst crimes since the Second World War should not be allowed to go unpunished, to examine this situation and take whatever measures are necessary for us to continue our work and accomplish the goals of the completion strategy.

The international community cannot, on the one hand, expect the Tribunal to complete its work in an efficient and effective manner while, on the other hand, withholding the resources necessary to ensure that the Tribunal is able to function. Indeed, the inability to recruit qualified personnel — even to replace staff members who leave — is a serious threat not only to the completion strategy but to the very ability of the Tribunal to continue its daily work. Should the arrears and the freeze continue, it is only a question of time before serious slowdowns occur. In a court of law, where defendants have the right to their day in court and to a speedy trial, such resource-driven delays are unacceptable.

I therefore appeal to all Member States that owe outstanding amounts — and especially to the Governments which are responsible for the bulk of the arrears — to heed the repeated calls of the Secretary-General for immediate payment of these assessments. Payments by smaller contributors are equally important: although the amounts involved in most cases are so low as to be virtually painless for the Governments concerned, they add up significantly. Their non-payment sends a distressing signal of indifference by the membership towards international justice. I have personally approached Governments urging them to make payment and will appear together with my colleague and friend President Møse before members of the General Assembly's Fifth and Sixth Committees in a meeting kindly organized by the Government of the Netherlands, which is our host country. If payment is not made promptly, and if the freeze therefore continues in place, suspensions in cases will likely become inevitable.

The second point concerns the election of permanent judges of the Tribunal. I have previously raised with the Council, both through a letter dated 13 January 2004 (S/2004/53, annex) and through additional documents submitted to the Council's informal working group on the ICTY and ICTR, that disruption of the work of the Tribunal would be unavoidable if, as past practice indicates, some judges were not re-elected to the new mandate beginning on 17 November 2005. The Security Council has not taken any action on this matter, and I respect its prerogatives. I hope that disruptions in the work of the Tribunal can be avoided, as they would if all currently sitting judges were re-elected; but such an outcome, of course, cannot be guaranteed.

Given that it appears that the judicial election will take place, it is important that it be scheduled in a way that will minimize any effect on the Tribunal's work. On 17 June, I met with the Secretary-General and, at the unanimous request of the judges of the Tribunal, requested that he consider that the election be held in mid-November 2004 rather than in March 2005 as prior practice would indicate. The advantage of bringing the election forward to a date one year before

the beginning of the new mandate is that it would enable the assignment of longer cases to panels of judges who have been re-elected for the new mandate, thus reducing the danger of disruption of a case. I am happy to report that the Secretary-General has accepted that suggestion and will send out letters to Governments in July inviting nominations. I call on Governments to submit their nominations as soon as practicable, taking into account, to the extent possible, the stability of the Tribunal.

I also remind the Council that the mandate of all ad litem judges at the Tribunal will expire on 11 June 2005. Since ad litem judges cannot be re-elected under the present Statute, the Council will have to take some action to address the situation. I will discuss this matter further with the Secretary-General and the Security Council in the autumn.

The final point that deserves mention in the category of measures yet to be taken in furtherance of the completion strategy is improved cooperation by Member States. The failure of the States of the former Yugoslavia to arrest and transfer Radovan Karadzic, Ratko Mladic and Ante Gotovina to the Tribunal is a major impediment to the successful completion of the Tribunal's mandate. As I have stated to the Council before, the Tribunal's mission cannot be said to be complete until those three fugitives have been tried before the Tribunal. Mechanical pursuit of the completion strategy must not lead to impunity for those accused.

I view the completion strategy as entirely compatible with the Security Council's aim in setting up the Tribunal in the first place: it is a practical manifestation of the international community's commitment to delivering justice credibly and effectively to the region, thereby contributing to reconciliation. I am concerned, however, that the completion strategy has led to the view that the Tribunal now has a fixed termination date and therefore no longer needs the support of the international community. It certainly appears that some in the former Yugoslavia think that, by hiding from arrest, they can wait out the Tribunal until it goes away.

The completion strategy rests on the assumption that the Tribunal will continue to receive the financial and political support of Member States that is needed to carry out its work. It does not matter how productive or efficient the Tribunal becomes if it cannot recruit and retain staff, if judges sitting on lengthy trials must be replaced, or if many senior accused remain at large. No amount of structural reform or hard work on the part of the Tribunal will solve those problems. Rather, the international community must reaffirm its commitment to the Tribunal's work and to the elimination of impunity for violations of humanitarian law by removing those obstacles from the Tribunal's path. The completion strategy will not become a reality if Member States start to back away from the Tribunal.

The Security Council's establishment of the Tribunal recognized the important contribution that the recognition of individual criminal responsibility plays in the preservation of peace and recognized the need for a mechanism for the trial and punishment of serious violations of international humanitarian law. That initiative has borne fruit not just through the Tribunal's holding of fair and transparent war crimes trials in its own cases, but also through the legacy of procedural and substantive jurisprudence that is already providing guidance to the ICTR and to the Special Court for Sierra Leone, and that will no doubt likewise guide the International Criminal Court and future national war crimes trials. I urge the members of the Council to continue their support for the Tribunal and to ensure that the Tribunal is given the means necessary to fulfil its promise and its full potential. In return, the Tribunal will continue to take all available steps to carry out its work in a timely and effective manner so that persons alleged to have committed the most serious crimes known to humanity are called to account.

The President: I thank Judge Theodor Meron for his kind words addressed to the presidency. I shall now give the floor to Judge Eric Møse, President of the International Criminal Tribunal for Rwanda.

Mr. Møse: It is a pleasure to address the distinguished members of the Security Council and to present my assessment of the progress made towards the implementation of the completion strategy of the International Criminal Tribunal for Rwanda (ICTR), as envisaged by resolution 1534 (2004). An updated version of our strategy was already submitted to the President of the Security Council on 30 April 2004, and I am now pleased to provide some oral explanations, Sir, under your distinguished presidency.

My intervention today can be summarized up in three points. The first is that the ICTR is on schedule.

The second is that measures have been taken to comply with the deadlines in resolution 1503 (2003). The third is that, based on the information presently available, there is every reason to believe that the trials will be completed by the 2008 deadline.

On my first point, that the ICTR is on schedule, a priority at the commencement of the third mandate in May 2003 was to render judgements in four cases where trials had been completed. I am referring to the Media case, the Kajelijeli case, the Kamuhanda case and the Cyangugu case. Members will recall that in the completion strategy that I introduced on 9 October 2003 (S/PV.4838), we envisaged that by the end of 2003 or early 2004 the ICTR would have completed 15 judgements involving 21 accused. That promise was kept. Consequently, the four judges whose terms of office were extended by resolution 1482 (2003) have all left the Tribunal.

Another important aim early in the third mandate has been to start new trials. Four trials involving 10 accused started between July 2003 and November 2003. The Gacumbitsi case commenced on 29 July 2003 and concluded with judgement on 17 June 2004. Trial in the Ndindabahizi case started on 1 September 2003 and judgement will be rendered very soon. In other words, two judgements, each involving one accused, are already the result of the activities undertaken at the commencement of the third mandate, and they were both completed in less than one year. Furthermore, the two so-called Government cases, each involving four accused, commenced on 3 November and 27 November 2003, respectively.

New trials are starting in 2004. We have already started the Muhimana case, which commenced on 29 March 2004, and the prosecution has presented its case in that trial. The defence case will commence on 16 August 2004. Judgement in that case is expected by the end of this year. Two other single-accused cases will start in August and September this year. They will be followed by the commencement in September of the Military II case, involving four accused. The Military II case is the last big trial at the ICTR. That implies that by the end of 2004, the number of persons whose trials have been completed or are in progress will have reached 48, just as envisaged in our completion strategy.

Turning now to my second point, regarding the measures adopted to ensure progress, it is obvious that the most important development since we last met in this room has been the increase in the number of ad litem judges that can sit at any one time from four to nine. I would like to express my sincere thanks to the Security Council for having adopted resolution 1512 (2003) so rapidly after our meeting on 9 October 2003. That reform has significantly increased the efficiency and the flexibility of the ICTR.

Let me give one example. The arrival of the fifth ad litem judge made it possible to start one trial, ensure the continuation of another trial, where the judge had fallen ill, and schedule the third trial. In other words, one additional ad litem judge had a direct impact on three trials. New additional ad litem judges will sit on trials commencing in August and September this year. For instance, in the Military II case, the bench will be composed of one permanent judge and two ad litem judges.

Single-accused cases are, of course, much more complicated at the international level than at the national level. But at the ICTR we now have considerable experience in handling them in an efficient way. Recent examples are the Niyitegeka, Gacumbitsi, Ndindabahizi and Muhimana trials, where the prosecution presented its evidence in four weeks, followed by a similar period for the defence after a break. The number of days required to hear all witnesses in single-accused cases has steadily decreased, as mentioned in paragraph 21 of our completion strategy. The fastest was the Ndindabahizi trial, where all witnesses, both prosecution and defence witnesses, were heard in 27 trial days. Additional time is then required for the parties to present their written and oral submissions and for the Chamber to write its judgement.

The main challenge for the ICTR now is to ensure progress in the five multi-accused cases. They involve a total number of 22 accused. I am referring to the Butare trial, with six accused, and the Military I and Military II trials, as well as to the Government I and II trials, each involving four accused. This leads me to an important point. In our planning, we are giving priority to the steady progress of the large trials. Visible results of this strategy can be seen in the Butare and Military I cases. In both trials, the prosecution case is approaching its end. It is important to complete the large trials as soon as possible in order to devote our time fully to the remaining single-accused cases.

With several trials — multi-accused and single-accused — and only three courtrooms, the Chambers must to some extent sit in morning and afternoon shifts. This shift system works well, but each shift is somewhat shorter than a full day in the courtroom. In order to increase our judicial output even more, we have looked into the possibility of constructing a fourth courtroom. This is mentioned in paragraph 52 of our completion strategy.

I am very pleased to report that one Government recently decided to fund the construction costs for such a courtroom. The availability of a fourth courtroom will increase our efficiency and flexibility further. It will make it easier for us to ensure the right balance between the steady progress of the big trials and the slotting in of the single accused cases.

I should also mention that we have encountered a couple of unforeseen problems. For instance, a judge in the Government II case had to retire because of health problems. Fortunately, the trial case could continue with a substitute judge after limited interruption, and it is now proceeding well. A problem in the Government I trial is now being addressed. I mention these examples simply to illustrate the complexity of our task and to provide a full picture of the situation.

Our completion strategy lists a number of legislative and practical measures adopted in order to speed up trials. I will not repeat them here, but I would stress in particular the importance of the Trial Committee. Composed of representatives from Chambers, the Prosecution and the Registry, its main purpose is to ensure that cases are trial ready on schedule. The establishment of the Committee, combined with long-term planning, is one of the reasons why we have been able to start so many trials in record time.

Rule 11 bis concerning transfer has been amended in a similar way, as described by Judge Meron. We did that in April. Thus, cases will not be transferred to jurisdictions that do not obtain minimum guarantees of procedural fairness and international human rights. So far, there are no applications for transfer before any Chamber.

Regarding my third and last point — the deadlines set by resolution 1503 (2003) — we can already draw some conclusions. First, by 2005 and 2006, we will have completed all cases involving the 27 accused on trial in 2004. This will, as already mentioned, bring us to 48 accused, who all held leadership positions in 1994.

The question is then how many additional accused the ICTR can deal with by 2008. In our completion strategy, we have indicated an estimate of 65 to 70 persons, based on the information presently available. This number will include 10 of the 15 detainees presently awaiting trial in Arusha, whereas the Prosecutor intends to transfer the other five to national jurisdictions. Of the 17 indictees at large, the Prosecutor will try to bring 13 to justice in Arusha and seek the transfer of four accused. As regards the 16 suspects at large, they could, as a maximum number, potentially be tried at the ICTR. It is clear, however, that the trials in Arusha will involve fewer than those 29 persons at large. Some of them will be dead, whereas others may never be arrested. The Prosecutor will concentrate on those bearing the greatest responsibility and transfer cases involving intermediate- and lower-rank accused to national jurisdictions, in conformity with resolution 1534 (2004). This is dealt with in our completion strategy and I know that it will be further developed by the Prosecutor today. I will therefore not enter into details here. Let me simply stress that both of us agree that the deadline set by resolution 1503 (2003) will be respected, provided that we have the necessary resources.

This brings me to an important point. I am aware that budgetary issues are not the responsibility of the Security Council, but the fact that some States have not paid their contributions to the ICTR could threaten our completion strategy. The present freeze in recruitment may have serious consequences for all branches of the Tribunal. I therefore want to draw this to the attention of the members of the Security Council. The ICTR has increased its efficiency significantly. It would not make sense to prevent us from fulfilling our task.

I should also stress the need for continued cooperation from all States. I am pleased to report that witnesses have continued to come from Rwanda since our 9 October meeting last year. The ICTR certainly appreciates that and all other assistance provided by the Rwandan authorities.

Let me finally mention that our completion strategy and my present statement concentrate on the deadline for trials. It is premature at this stage to go into the issue of the 2010 deadline for the appeals.

I have deliberately kept this address brief, but hope to have conveyed the message that the ICTR is working efficiently and in full conformity with resolutions 1503 (2003) and 1534 (2004). Let me add this: It may be difficult, visiting New York, to convey the full picture of all we are achieving in Arusha. The ICTR would certainly be pleased if the Security Council decided, for instance, that its Working Group were to pay a visit to Arusha in order to get the full picture of what we are achieving there. I look forward to the exchange of views with the members of the Security Council.

The President: I thank Judge Erik Møse for his kind words addressed to the presidency.

I now give the floor to Ms. Carla Del Ponte, Prosecutor of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

Ms. Del Ponte: It is a great honour for me, too, to address once again the Council to present new developments at the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the key challenges that the Office of the Prosecutor faces in the implementation of the completion strategy.

On 21 May 2004, President Theodor Meron transmitted to the Council an assessment of the progress made by the Tribunal in the implementation of its mandate and of its completion strategy. As one of the organs of the Tribunal, the Office of the Prosecutor contributed and reported its continued efforts to fully and in a timely manner implement the completion strategy that we defined in 2002 and that was subsequently approved by the Council, notably in resolution 1503 (2003).

The Tribunal's completion strategy relies on three major dates, the first concerning the conclusion of all new investigations by the end of this year, 2004. This date thus entirely relies on the activities and efforts of the Prosecutor and her Office. I am therefore pleased to report that this first major milestone will be reached as planned. By the end of this year, the investigation of our outstanding targets will be complete and the last of our new indictments will be presented. In furtherance of my commitment to completing these investigations, we have spared no effort in streamlining the investigations and focusing them on only the most senior leaders responsible for the worst and gravest crimes.

Since my written assessment, two indictments were confirmed. One of them will be presented in a sealed form to the relevant authorities very soon. The other indicts a Croatian general for crimes committed in 1993 against Serb civilians in the so-called Medak pocket. It is our intention to request that this case be referred to Croatia.

Not all of our inquiries resulted in indictments. We continually reviewed the strength of the evidence in each case. In January 2004, I decided that the investigations concerning seven targets would be suspended, not indicted before the Tribunal, and eventually referred to domestic local prosecutors in the former Yugoslavia. Investigations concerning two more high-level suspects were discontinued after their deaths. Furthermore, we decided not to continue the investigations concerning two other targets, due to insufficient evidence. As a consequence, we are completing six remaining investigations involving a maximum of 11 targets. On this basis, a maximum of six new indictments could be prepared before the end of 2004 for submission, first to the Bureau for review of the seniority of the suspects, and then to the judges for confirmation. These indictments could result in a maximum of four new trials only, given the possibility of joining some of the indictments.

With this major achievement — the completion of all new investigations in sight — we are now in a better position to plan the rest of our activities. The Tribunal knows exactly how many cases will have to be tried. We remain at the disposal of the President and the judges to schedule the remaining trials. The next completion dates foreseen by the strategy to achieve the Tribunal's mandate are 2008 and 2010. All trials should be completed by 2008 and all appeals should be reviewed by 2010. The Office of the Prosecutor remains strongly committed to meeting those two objectives. However, unlike the conduct of investigations — over which the Prosecutor has a large measure of control — the main responsibility for the scheduling, administration and conduct of trials and appeals extends well beyond the Prosecutor. Although my Office will continue to take all possible measures to further streamline our trial and appeals activities — notably by strictly limiting the number of charges and prosecution witnesses — we must stress that we do not control a number of factors, such as the timely arrest of

fugitives, the appearance of witnesses and the emergence of crucial evidence, as we rely on States to obtain these.

As far as the Office of the Prosecutor is concerned, a number of measures have already been taken to improve the efficiency of the prosecution in the preparation and presentation of cases. They include significant procedural and technological improvements, and have been detailed in the written assessment submitted to the Council. Great savings of court time have been achieved by guilty pleas, obtained through the active involvement of my Office. We remain open to exploring with the defence the possibility of accused persons pleading guilty to all or some of the charges against them. However, ultimately the Office of the Prosecutor can only comply with the Chambers' instructions on scheduling cases, and obviously has no control over the swift conduct of the defence case or the writing of judgements. Nevertheless, we are actively collaborating with the President, the Chambers and the Registry to update the trial calendars for the coming years.

The completion strategy is twofold. First, the International Tribunal must try those bearing the gravest responsibility for the crimes, including the high-profile fugitives, and thus complete its activities in a swift and efficient, yet fair and impartial, manner. Secondly, the domestic jurisdictions of the territories of the former Yugoslavia must be reformed and equipped to complete the work of the International Tribunal and take over the remaining cases.

The written assessment submitted to the Council highlights three types of cases identified to be transferred to domestic courts. The first category concerns ICTY indicted cases that could be transferred pursuant to rule 11 bis of the rules of procedure. In strict adherence to the guidelines provided by resolutions 1503 (2003) and 1534 (2004), 12 cases, concerning 22 accused, have been identified for possible transfer to domestic jurisdictions, subject to the judges' approval. All those concerned held low- and mid-level positions in their respective hierarchies, and were predominantly indicted in the early days of the Tribunal.

The transfer of mid- and low-level cases to domestic jurisdictions would free court resources for senior accused leaders. Efforts have yet to be invested in the establishment of domestic jurisdictions capable of trying war criminals. The support of the international community, including regional organizations, such as the Organization for Security and Cooperation in Europe, is of paramount importance in this process.

For the time being, following the guidelines set by the Security Council, I do not actively consider the possibility of transferring any high-level case. However, the Council must be aware that, even if the Chambers consider positively all 12 requests to which I referred earlier, this may not be enough to meet the 2008 deadline. We will continue to do our utmost to meet this target date.

The Council should also take into account that the completion strategy may be resented by the victims, mainly because their trust in domestic courts is very limited. Following my recent visit to Bosnia and Herzegovina, I received letters from victims' associations expressing their grave concern and even disagreement in connection with the completion strategy. They asked me to pass along those letters to the members of the Council, which I would like to do.

Allow me to focus now on the three key challenges that must be met to ensure that the ICTY mandate is properly and successfully achieved. The challenges are the arrest of fugitives; our finances; and issues of States' cooperation.

The first key challenge is the failure of the relevant authorities, in particular in the Republika Srpska in Bosnia and Herzegovina and in Serbia and Montenegro, to arrest or obtain the surrender — voluntarily or through coercive measures — of the 20 indicted who are still at large. That figure does not include two accused whose indictments and arrest warrants are sealed.

The failure to obtain the arrest of fugitives has a number of consequences for the completion strategy. It prevents the Tribunal from joining cases that could be tried together. It therefore obliges us to conduct separate trials on the same crime base, which leads to substantial losses of court time. For instance, had Radovan Karadzic been arrested early this year, it would have been possible to join his trial with the trial of Krajisnik, another former senior member of the Bosnian Serb leadership currently being tried. In this particular case, we most likely lost the equivalent of one courtroom for well over a year. Our ability to envisage other joinders is limited not only by the

difficulties faced in ensuring timely surrender, but also by the size of the courtrooms, which would make it difficult to conduct trials with more than six or seven accused.

The failure to arrest or surrender fugitives seriously affects the strategic planning of the prosecution. Indeed, we face the dilemma of choosing either to focus on the accused already in the custody of the Tribunal or to plan for the trial of such senior accused as Karadzic, Mladic, Gotovina and others who may unfortunately remain at large. An unintended consequence of the completion strategy is that fugitives and their protective networks are trying to buy time until 2008 in the hope of evading justice, as they believe that the deadline for them to be tried in The Hague will soon expire. In this context, a statement that the ICTY will remain open as long as necessary to ensure that the fugitives mentioned in Security Council resolutions 1503 (2003) and 1534 (2004) are tried would serve the interest of justice.

A second problem for the completion strategy is the dire budgetary and financial situation of the Tribunal in general and of my Office in particular. We have been badly hit by the deferred consideration of the 2005 budget for the investigative support for trials and appeals.

Consequently, we have been unable since the beginning of this year to extend the contracts of the staff who will provide investigative support to trials and appeals beyond 31 December 2004. Moreover, the cash-flow crisis that emerged this spring, leading to a temporary freeze on new recruitment imposed by the Secretariat, prevents us from recruiting, and even from replacing, essential personnel who leave the Tribunal. And, as other international judicial institutions are expanding, notably in The Hague, the ICTY is losing staff at an alarming rate. The combined effect of those factors has had a considerable impact on morale, making it, in turn, even more difficult to retain experienced staff.

These financial restrictions directly affect the completion strategy, as the scarcity of investigative resources will inevitably slow down the preparation and conduct of trials. Because that untenable situation is directly influencing the completion of our mandate, we urge the Council to support us in our efforts to solve this very serious problem.

The third main challenge encountered by the ICTY remains the issue of the full cooperation of all States. The cooperation of the States of the former Yugoslavia is not only a legal obligation; it is also of vital importance for a successful completion strategy. Beyond the arrest of indicted criminals, States have the obligation to grant access to witnesses and documents. The written assessment on the status of cooperation provided by the countries of the former Yugoslavia remains up to date.

The Croatian authorities are, at this point in time, fully cooperating with my Office. That cooperation must continue, and I expect Croatia to locate and transfer Gotovina to The Hague as soon as possible — hopefully, prior to my next appearance before the Council.

Since December, the authorities of Serbia and Montenegro have provided almost no cooperation, and that country has become a safe haven for fugitives. At least 15 accused who are at large, including Ratko Mladic, spend most of their time there. According to information recently obtained, fugitives who were believed to reside in Republika Srpska have moved across the border. Now I am even reluctant to pass on any information concerning the fugitives to the Serbian authorities, because the last time I gave precise information regarding a high-level fugitive charged with the Srebrenica genocide, I was told by the Serbian authorities that, due to the political circumstances, it was not opportune to arrest him. I have learned that he has since disappeared.

There has been no progress either in other areas in which the cooperation of Serbia and Montenegro is being sought. A few waivers allowing witnesses to testify before the ICTY were granted in the past month, but they concern mainly defence witnesses, and not prosecution witnesses. Well over 50 requests for waivers are still outstanding. Several statements were made by high-level officials to the effect that that cooperation would restart after the presidential election, which took place on 13 and 27 June. We will therefore be able to assess very soon whether these authorities are serious or simply buying time. In the absence of a significant number of transfers of fugitives in the weeks to come, I will have to conclude that Serbia and Montenegro continues to be unwilling to abide by its international legal obligations.

The support of the international community as a whole and of all States Members of the United Nations remains crucial in securing the cooperation of the States of the former Yugoslavia. Also, certain international institutions, such as the Stabilization Force (SFOR) in Bosnia and Herzegovina, have an important role to play in the arrest and transfer of fugitives. The last time a fugitive was arrested in Bosnia and Herzegovina by SFOR was in July 2002. I hope that the new arrangements regarding the future of international forces in that country will be more effective in the search for, and arrest of, indicted criminals.

As Prosecutor, my only recourse, in the case of a State's failure to comply with its obligations, is to report it to the President of the ICTY, who, in turn, can bring it to the attention of the Security Council. On 4 May 2004, a report concerning the consistent failure by Serbia and Montenegro to comply with its legal obligations was forwarded by President Meron to the Council. We urge the Council to act and to put an end to this pattern of non-cooperation. If this situation is allowed to continue, it will endanger the completion strategy as well as the legacy of the Tribunal.

The message of the victims of the worst crimes known to humankind remains constant, regardless of their community of origin. Their concern is to see that justice is done, not simply because they wish to see the criminals punished, but also because they understand that the achievement of stability and peace in their countries depends on the judicial process. As we approach the 10-year commemoration of both the Srebrenica genocide and the signing of the Dayton Agreement, we simultaneously approach another anniversary: Radovan Karadzic and Ratko Mladic have been at large for almost 10 years. How long will it be tolerated that these leaders are escaping justice? How long will it be tolerated that they are making a mockery of both justice and the repeated commitment of the Security Council to have them arrested and tried?

Please allow me to stress once again how important the Council's support is for the success of the Tribunal. The factors that have a real influence on the completion strategy of the ICTY are threefold: the financial needs of the Tribunal, the timely arrest of the fugitives, and the support needed to establish credible domestic jurisdictions. All three are beyond the Tribunal's control, but they can and must be addressed by the international community.

When it established the Tribunal in 1993, the Council proved its commitment to justice and the rule of law. In resolution 808 (1993), it stressed its determination to put an end to the widespread crimes occurring within the territory of the former Yugoslavia, including reports of mass killings and the practice of ethnic cleansing, and to bring to justice the persons most responsible for those crimes. Eleven years later, thanks to all the efforts made by the international community to halt those crimes and redress them judicially, these objectives have almost been achieved. It is perhaps ironic that, just when the ICTY is gaining momentum and reaching cruising speed, so much time is being spent discussing its end. But the completion of the mandate is now within reach, and we can see the final years ahead of us. This period should not become simply an "end-game", with an abrupt closing, regardless of whether or not the top leaders are apprehended and tried before the ICTY. That would negate all the efforts that have been devoted to the process and all the results already obtained.

I join President Meron in urging the members of the Council to continue their support for the Tribunal and to ensure that it is given the means necessary to fulfil its promise and its full potential.

I thank you for your attention and for your continued support.

The President: I thank Ms. Carla Del Ponte, Prosecutor of the ICTY, for her briefing.

I give the floor to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Court for Rwanda.

Mr. Jallow: Mr. President, may I thank you and members of the Council for the honour you have bestowed on me and on my colleagues in inviting us to brief you on the state of our work.

When I last addressed the Security Council, in October 2003 (S/PV.4838), I undertook to carry out a review of the case load of the Tribunal with a view to identifying what should be concentrated on and what, in my view, could be accomplished within the time frames set by the completion strategy. I also undertook to consider what measures were to be applied to the rest of the workload.

The Council now has before it a revised version of the International Criminal Tribunal for Rwanda (ICTR) completion strategy with the assessment

required under Security Council resolution 1534 (2004) (S/2004/341). That revised strategy and assessment is an outcome of the review undertaken by the Office of the Prosecutor and consultations among all organs of the Tribunal.

I wish to report that the Office of the Prosecutor has reviewed the caseload and has identified which cases it considers can and should be proceeded with at the Tribunal and which should be transferred to national jurisdictions. We have reviewed and identified strategies within the Office whose implementation, we believe, will enhance our capacity to respond more effectively to the challenge of completion. We have also adopted a completion strategy action plan setting out the critical measures that need to be taken internally at the ICTR, in particular in the Office of the Prosecutor, in order to implement the completion strategy and the time frames for doing so. A monitoring mechanism has also been put in place to oversee the implementation of the action plan. The strategy is not a static one. It will continue to be reviewed and adjusted in the light of new and changing circumstances. It is necessary that the strategy retain some flexibility in that respect.

In our review we were guided by the Security Council's call to concentrate on those persons holding leadership positions: "the most senior leaders suspected of being most responsible for crimes within the jurisdiction of the ... Tribunal" (*resolution 1534 (2004), para. 5*). In this context, we have been guided by a number of factors, which have been set out in the completion strategy report before the Council. President Møse has briefed the Council on the cases that have been completed at the Tribunal.

With regard to the remaining 21 detainees currently on trial at the ICTR, the prosecution expects to close its case in the trial of 10 of them by the end of 2004: those accused in the Butare case and the Military I case. We have just finished the prosecution phase in the case of one accused and have completed trial in two other cases. Judgement has been delivered in one of them, and judgement is expected in respect of the second. Early next year, we hope to be able to close the prosecution's case in relation to at least four other accused persons. The prosecution is ready to commence the trials of six other accused this year.

Of the 16 accused persons remaining in detention, we propose to transfer at least five of them to Rwanda for trial within national jurisdiction, subject to the provision of satisfactory arrangements and assurances. We will then make trial-ready the cases of the remaining detainees by the middle of 2005. So, by the middle of 2005, the cases of all those who are currently in detention will have commenced. Some will have been transferred, the rest will be on trial.

With regard to transfers, we propose to transfer to national jurisdictions the cases of at least four of the indicted fugitives who continue to elude us.

On the basis of the criteria of our review, to which I referred earlier, we have also reduced the number of targets for investigation from the original 26 to 16. Investigations of those 16 targets will be concluded by the end of the year.

With regard to the allegations against members of the Rwandan Patriotic Front, my Office is now evaluating the evidence that has been gathered so far with a view to determining whether there is a sufficient basis for prosecution, against whom and for what offences.

I have also been engaged in discussions with the Rwandan Government on this matter, specifically with respect to what options are available for dealing with any cases that may arise from any such evaluation. We do so in the context of the concurrent jurisdiction enjoyed by the Tribunal and Rwanda with respect to those cases, while having due regard, of course, for the primacy of the Tribunal, which is guaranteed by the Statute of our court. I shall be reporting to the Council on progress in that respect.

I expect that the number of accused to be tried by the Tribunal, excluding those already in detention — in other words our additional workload from now onwards — will be a maximum of 29 persons. It may well be — and I expect it will be — below that figure, making allowances for difficulties in apprehension, the death of some accused, and so on. As well, the outcome will largely depend on the state of the evidence after the conclusion of investigations and our success in apprehending those at large.

There is another category of suspects who are at large and not yet indicted or apprehended but whose cases are under investigation and whom we propose to transfer to national jurisdictions. That category has only marginally increased, from 40 to 41 cases. Even here, it is possible that in those cases in which the

evidence establishes a prima facie case by the end of this year, we may simultaneously seek confirmation of an indictment, have the Chambers issue an arrest warrant and obtain an order for transfer of the file to a national jurisdiction. Thus, when the suspect is eventually apprehended, he can stand trial in the national jurisdiction named in the transfer order.

Much work remains to be done. The number of accused who remain to be prosecuted at the Tribunal between now and the end of 2008 — which is the deadline for the conclusion of trials at first instance — is actually greater than the number of accused whose cases have been disposed of since the inception of the Tribunal.

Meeting the challenge requires new strategies. In the Office of the Prosecutor and, generally, within the Tribunal, we took time off to collectively review our working methods and consider what new measures need to be applied to deal with this workload. Clarifying the target and determining our workload — in other words, determining our completion strategy — was the first of two critical issues to be addressed. The second issue — the measures required to successfully implement that strategy — also needed to be addressed.

In that context, we have reviewed all the key areas of our work. We have reviewed investigations, indictments, the pre-trial process, the trial process and the appeals process. We did so with a view to devising a plan susceptible of action and to fostering teamwork and collaboration among management, investigators, the evidence and trial sections and other organs of the Tribunal. We have looked for ways to streamline processes, eliminate duplication, improve coordination and generally improve our focus and efficiency in the prosecution of cases.

As a result, our prosecution policy will focus on a number of issues. First, single accused, rather than multiple accused trials, will be the norm unless it is absolutely necessary to do otherwise. Secondly, we will draft indictments with fewer charges, charges that can be proved. Thirdly, we will reduce the number of witnesses, selecting them on the basis of the minimum number required to prove the charges. Fourthly, we will ensure that, upon confirmation of an indictment, the Office of the Prosecutor is ready to proceed with the case. As soon as we submit an indictment and have it confirmed, we will be ready to proceed with the case in order to avoid delay. We will also focus on improved coordination among trial teams and improved support to those teams with respect to witness management, et cetera. We will continue to be open to plea bargaining with accused persons. Finally, we will strive to improve the capacity of the Office of the Prosecutor for storage, retrieval, analysis, dissemination and use of evidence. We are convinced that all those measures will help us to meet the challenge of dealing successfully with the existing and anticipated workloads.

A number of items in the action plan require specific reference. As required by the Council, we expect to close investigations on new indictments by the end of 2004. By the end of October 2005, it is proposed that we complete the review of the evidence and the filing and confirmation of any new indictments, in accordance with the new indictment policy. As I have already indicated, we plan to prepare for trial the remaining detainees — with the exception of those whose cases are to be transferred to national jurisdictions for prosecution — by mid-2005.

The transfer of cases is an important component of the completion strategy, and we remain firmly committed to it. We plan to commence immediately the preparation of those files that are scheduled for transfer or transmission, and we hope to conclude that process by the middle of 2005. An ad hoc committee on transfer of cases, which had been set up internally at the Tribunal to advise us on the strategy and conditions for the transfer of cases, submitted its report and recommendations in April and May 2004. As a follow-up, a draft agreement on transfer of cases is now being prepared by the Office of the Prosecutor as a basis for negotiations with interested countries. A questionnaire prepared by the committee has also been circulated to a number of countries.

It is our intention that the second half of this year should see discussions with Rwanda and with other countries for the conclusion of agreements on the transfer of cases. So far, we have identified Rwanda and seven other national jurisdictions as potential recipients of cases, subject to further negotiations with the authorities concerned. In the case of Rwanda, a mission fielded this year by the Registrar recently concluded an inspection of prison facilities in that country as a prelude to considering the negotiation and conclusion of a prisoner transfer agreement. Accused persons who are transferred to Rwanda for trial will,

upon conviction, have to serve their sentences in that country.

At its last plenary meeting in Arusha, in April 2004, the Tribunal amended its rules of procedure in order to empower it to transfer to a national jurisdiction for trial an indictee who was not in its custody. Previously, it could transfer only indictees who were in its custody, thus leaving indictees at large both unapprehended and not subject to transfer. The rule change means, in effect, that the Tribunal cannot make transfer orders with respect to fugitives that can be implemented, even when the fugitive is apprehended after the closure of the Tribunal. Additionally, the rule change increases the range of countries to which transfer can be effected to include any country that is willing and able to accept and prosecute the accused. That is so even if such a country is neither the arresting State nor the State in which the offence was committed.

In some instances, the prospects for transfer are dependent on the capacity of the recipient State — particularly the capacity of its judiciary. While we remain optimistic about concluding a transfer agreement with Rwanda and with other countries, in the case of Rwanda there is a need to expeditiously address resource issues to enhance the national judicial capacity to deal with these cases. It is urgent that we complete and equip a courtroom for the purpose of holding trials in Kigali, Rwanda. At the Office of the Prosecutor, we have proposed — as a way of enhancing the capacity of the prosecuting authority in Rwanda — accepting a number of such Rwandan officials for attachment and training in our Office, in anticipation of transfers to that jurisdiction. There may well be other needs. In accordance with the relevant resolutions of the Council, the international community should provide the necessary resource support to countries that agree to take cases from the ICTR. Many of them, of course, will not conclude agreements to take cases unless they receive assurances as to the availability of such support.

Fifteen of the indicted fugitives remain at large. Many of them are located in the eastern part of the Democratic Republic of Congo, and efforts to apprehend and transfer them to the seat of the Tribunal have had little success so far. The likes of Felicien Kabuga and others continue to elude our efforts, and since October 2003 only two fugitives have been arrested. With the cooperation of the Dutch authorities, Ephrem Setako — who is indicted on charges of genocide — was arrested in the Netherlands in February 2004, and he is now facing judicial proceedings there for his transfer to the Tribunal. In May 2004, Yusuf Munyakazi — also indicted on charges of genocide, as well as crimes against humanity — was arrested in the Democratic Republic of the Congo with the cooperation of the authorities, the Government of the United States of America, the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and the ICTR's tracking team. He has already been transferred to the Tribunal, where he has made his initial appearance.

Those two successes are an indication of the potential — and indeed the necessity — for international support and cooperation and of the positive results they can bring to the international criminal justice system. We owe the authorities concerned a debt of gratitude. We will continue to be relentless in our pursuit of the accused persons, wherever they may be, with the intention of their apprehension and their transfer to the Tribunal or to a national jurisdiction for prosecution. To let them escape would be to encourage impunity to prevail; neither the Tribunal nor the international community can afford to do so. To that end, it is crucial that the Tribunal be able to retain an effective and adequately resourced tracking unit, even beyond 2004. The unit is responsible for gathering intelligence on the whereabouts and activities of those fugitives and on their precise locations, and for providing support to national law-enforcement authorities to effect their arrests.

Over and above that, the Tribunal requires the collaboration of the States in which the fugitives are located in order to effect their apprehension. Without such cooperation, the tracking programme will be at great risk. I propose to hold consultations later in the year with a number of Governments within whose territories some of the fugitives are residing, according to our indications.

As a consequence of the creation of a separate Office of Prosecutor for the ICTR by the Security Council in 2003, we have had to develop our own Appeals Unit, since the one that had previously served the two Tribunals has been split. The two Tribunals, however, continue to share a common Appeals Chamber. Of the 12 positions provided for the Appeals

Unit of the Office of the Prosecutor, six have been filled so far, with the recruitment of a Senior Appeals Counsel as head of the Unit. The recruitment of six others is at an advanced stage.

However, the workload of the Unit — and necessarily of the Appeals Chamber itself — will be building up significantly as more cases come down the line for trial or are concluded at trial. Hence, the capacity of the Appeals Unit of the Office of the Prosecutor will need to be enhanced beyond the current level to deal effectively with that increased workload. We expect to do so through a process of staff redeployment, initially from the Investigation Section in 2005 and subsequently from the Prosecution Section as the number of cases on trial begins to decline, perhaps by 2006.

With the anticipated increase in the number of accused standing trial in the years ahead, it is imperative that the capacity of the Office of the Prosecutor — particularly with regard to recruiting prosecuting staff — be improved significantly. Our efforts have been concentrating on the recruitment of staff with demonstrated practical experience in criminal prosecution. The policy of recruitment is being aggressively implemented, with many of the posts in the immediate Office of the Prosecutor and in the Prosecution Section having been filled. Many others, however, remain to be recruited.

Although investigations into new indictments are to be completed by the end of 2004 — and we are committed to that deadline — it is necessary for me to state that the Tribunal will require investigators in ever-declining numbers until the conclusion of appeals in 2010. The Investigation Section is not expected to close down at the end of 2004; it was in any case already under-resourced, with many vacancies in its establishment. Already, the Section has been hit by a number of departures of some experienced staff: in anticipation of the completion deadlines, they have departed to other opportunities which are perceived to offer greater security.

From 2005, the Section will be concentrating on non-conventional investigations. The preparation of new cases for trial from 2005 onwards will require investigative support in the selection and proofing of witnesses, to be undertaken in conjunction with the trial teams; trials that are in progress require investigative support in response to unforeseeable courtroom demands and the need to investigate specific defences, such as alibis, which are raised by the defence or to ascertain the antecedents of defence witnesses, the particulars of whom are disclosed only at the close of the case for the prosecution; circumstances may require the production of or a response to fresh evidence introduced at the appeal stage; et cetera: all those factors confirm that some level of investigative support of varying degrees will need to be retained at the Tribunal until its closure in 2010.

The issue of resources — particularly manpower and equipment — is crucial to a successful and proper completion of our mandate. Although the General Assembly has urged that the Tribunals should be provided with the resources necessary to conclude their mandates effectively within the completion strategy time frame, there has been a freeze on new recruitment, with approval being sought on a case-by-case basis, as a result of delays in the payment of contributions by Member States. It goes without saying that trials cannot proceed optimally unless there is adequate manpower to carry out the core activity of the Tribunal: the prosecution of cases. That includes prosecuting attorneys, appeals attorneys and staff in the immediate Office of the Prosecutor. It is necessary for the progress of the trials that there be no interruption in the recruitment of such staff in the Office of the Prosecutor. Budgetary constraints are now also impeding the deployment of missions of trial attorneys and investigators to support the ongoing trials and to prepare new cases.

All our plans and benchmarks are premised on having in place a full complement of prosecuting staff in the Office of the Prosecutor with adequate budgetary support to cover activities such as the fielding of missions, the hiring of consultants and experts, et cetera. In the absence of such capacity and support, the attainment of the benchmarks of the completion strategy will be in great jeopardy.

The discharge of the Tribunal's mandate depends to a large extent on the level of international cooperation it receives. The state and level of cooperation with Rwanda generally, and with particular reference to the availability of witnesses and other evidence, continues to be satisfactory. I have been going frequently to Rwanda for consultations with Government officials and with non-governmental organizations, such as victims and survivors

associations, and to oversee the Investigations Division in Kigali. The Deputy Prosecutor and some other senior prosecuting staff have similarly been visiting the office in Kigali. Also, a mechanism has been put in place for liaison between the Office of the Prosecutor and the Government of Rwanda in relation to all requests for cooperation and assistance. It seems to be working fairly well.

Beyond that, however, we will continue to require assistance in respect of the tracking and apprehension of suspects and accused persons, in the acceptance by States of cases for prosecution within their national jurisdictions and in the relocation and protection of witnesses who face grave security risks as a result of their collaboration with the Tribunal. Above all, we require support in the provision by States of the tools — that is, the resources, both human and material — that are so necessary for the Tribunal to finish its task properly and on time.

The President: I thank Mr. Jallow, the Prosecutor of the International Criminal Tribunal for Rwanda, for his briefing.

Mr. Duclos (France) (*spoke in French*): My delegation thanks the Presidents and the Prosecutors of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda for their reports, transmitted to the Council in May in documents S/2004/420 and S/2004/341 respectively, and for the useful supplementary information they have provided today on the status of the implementation of their completion strategies.

From the outset, France supported the idea of completion strategies for the two Tribunals, as initially proposed by their respective Presidents. The objective is both legitimate and necessary: no one wants the work of those two ad hoc courts to continue indefinitely. That would be in the interest neither of the Tribunals nor of the proper administration of justice. At the same time, the completion strategies of the two Tribunals should not and will not be interpreted as setting cut-off dates for investigations, judgements or appeals. Our core principle must remain that of ensuring that the main persons responsible for the most serious crimes committed in the former Yugoslavia and during the genocide in Rwanda are brought to justice and punished for their crimes. We must therefore join the need to eliminate impunity with the need to preserve the intended role of the Tribunals as ad hoc, not standing, courts.

Here, France welcomes the various concrete measures already adopted by the Tribunals, as described in their respective reports, with a view to implementing their completion strategies. It goes without saying, of course, that such internal measures must be adopted and implemented with full respect for the competencies of the various organs of the Tribunals and for the independence of their Prosecutors, as stipulated in the Statutes of the Tribunals. My country is firmly committed to that principle and recalled it at the time of the Council's adoption of resolution 1534 (2004).

When necessary, the Council too must make a contribution, as it did, for instance, with respect to the appointment of ad litem judges and to the recent expansion of their competencies.

But such praiseworthy and vital internal measures alone are not enough to attain the goal. Nothing would be worse than avoiding the issue and forgetting that the exit strategy which the Council first formulated and endorsed in resolution 1503 (2003) can be successful only if the whole international community is fully mobilized and takes the relevant action. Members of the United Nations must honour their financial commitments to the Tribunals, which at present, as the Secretary-General has once again reiterated, is far from the case. In fact, we cannot ask the Tribunals to do anything more to implement their completion strategies without also providing the financial resources that they have been promised and on which they have every right to count.

Above all, all States — first and foremost Rwanda and the States of the former Yugoslavia — must cooperate actively and in good faith with the Tribunals. I would recall that such cooperation is obligatory under the Tribunal Statutes, which were adopted through Security Council resolutions under Chapter VII of the Charter. It is a matter of particular concern that the Tribunals are enjoying only partially or not at all the cooperation of all the States most directly concerned, whether with respect to the arrest and transfer to The Hague or Arusha of accused persons who remain at large or with respect to access to witnesses and the provision of documents. The lack of cooperation brought to the Security Council's attention, particularly with regard to Serbia and

Montenegro, the Republika Srpska and Rwanda, must come to an end, and it is up to the Security Council to recall and ensure respect for, if necessary, the obligation to cooperate. That is particularly necessary because such lack of cooperation can only impede and delay the implementation of the completion strategies of the two Tribunals. Can one conceive that the dates contained in that plan — for the conclusion of investigations by 2004, of judgements by 2008 and of appeals by 2010 — can be reasonably maintained without the arrest and the transfer of suspects at large, particularly Mr. Karadzic, Mr. Mladic, Mr. Gotovina and Mr. Kabuga? It is clear to my delegation that the answer to that question can only be negative.

In that context, it is important that the competent national jurisdictions be able to judge, under conditions respectful of international standards of justice, the cases relating to the mid- or low-ranking suspects that will be transferred to them by the two Tribunals. It must be noted that that objective, which is an integral part of the completion strategy of the work of the two Tribunals, is far from being achieved and can be achieved only if the States involved and the international community become increasingly mobilized to enable relocation of these cases as soon as possible. The establishment of the special War Crimes Chamber within the State Court of Bosnia and Herzegovina is a positive step.

As emphasized by the statements just made by the Presidents and Prosecutors of the two Tribunals, the various prerequisites are far from being met at this time. Much remains to be done in order to meet those objectives within the context of the envisaged timetable.

In conclusion, I should like to ask the authorities of the two Tribunals exactly how and when they think it will be possible to relocate, under proper conditions, some cases to competent national jurisdictions and what criteria will be followed. I would also like to thank the Prosecutor of the International Criminal Tribunal for Rwanda for the clarifications he has given on investigations and cases directly involving former members of the Rwanda Patriotic Army. From what he has said, I have understood that those investigations are not among the ones to be thrown out, which my delegation welcomes. Rather, they are the focus of a specific assessment that will not be subject to the deadline to conclude investigations by the end of 2004. It will be important that the Security Council be kept informed of developments relating to these inquiries and their assessment.

Mr. Muñoz (*spoke in Spanish*): We welcome the presence in the Council of the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR).

The report of the President of the International Criminal Tribunal for the Former Yugoslavia, Mr. Theodor Meron, to the Council, which was prepared in accordance with resolution 1534 (2004), contains a detailed account of the progress made in the implementation of the completion strategy. The report indicates progress in the initial judgements and appeals.

We agree that this Tribunal, as the report indicates, is sending a strong message of responsibility and accountability to the former Yugoslavia and to the entire international community. The completion strategy requires that the War Crimes Chamber in Bosnia and Herzegovina be established as soon as possible, as envisaged in resolution 1503 (2003). We believe it is crucial to ensure appearance before the International Criminal Tribunal for the Former Yugoslavia by Radovan Karadzic, Ratko Mladic and Mr. Ante Gotovina, as called for in Security Council resolutions.

We are alarmed that, as the report indicates, it is not very probable that the Tribunal will be able to judge other fugitives or new suspects within the deadline established in the completion strategy. In that connection, a key element is the cooperation of the States of the former Yugoslavia.

On the other hand, my delegation appreciates the comprehensive presentation of Mr. Eric Møse, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwanda Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994. The briefing gives us an updated and revised version of the Tribunal's completion strategy, in keeping with the provisions of Security Council resolutions 1503 (2003) and 1534 (2004).

The delegation of Chile also notes the intention of the Tribunal Prosecutor to focus its efforts on those persons who formerly held leadership positions and who, according to the Prosecutor, bear the greatest responsibility for the crimes committed in 1994. The preceding will make it possible to conclude the investigations by the end of this year, at the latest, in keeping with the provisions of resolution 1534 (2004).

Chile wishes to reiterate its support for the completion strategies of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, endorsed by the Council, to conclude investigations by the end of this year, to conclude judgements by the end of 2008 and to conclude its entire workload by 2010.

Finally, we believe that the work of these Tribunals, apart from its own merits, constitutes a forceful warning to violators of human rights, regarding violations that could turn into humanitarian tragedies today or perhaps tomorrow. At the same time, we reiterate our firm conviction that those responsible for such crimes cannot continue in impunity.

Mr. Thomson (United Kingdom): I wanted to warmly thank President Meron, President Møse, Ms. Del Ponte and Mr. Jallow for their reports and presentations today and to welcome them here to the Council. I will not try to cover my country's entire approach to the two Tribunals, but will just focus on a limited number of points, if I may.

I will turn first to the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY), where we welcome the Tribunal's efforts in the past year to increase the efficiency of ICTY proceedings. Those efforts are clearly reaping dividends, but we recognize, and we have heard this morning, that there are still obstacles to achievement of the completion strategy. One of them, of course, is the financial situation, on which President Meron has spoken eloquently. We have to continue to press all States to pay their dues if we are going to enable the Tribunal to fulfil the purpose for which it is set up. The international community really does face a choice. The ICTY, without adequate funding, will struggle to complete its work effectively and it will do so over a much longer and, probably, more costly time frame than envisaged; or it can be enabled to continue working towards its completion strategy, which envisages a swifter ending and a more effective completion of the mandate.

A second obstacle is the ICTY's concerns to avoid undue delays over the election and re-election of judges. We welcome the President's efforts to deal with these problems. He has flagged those for us. My delegation believes that we should give some consideration to allowing trial judges who are not re-elected to complete their cases where those cases are over six months old. I would welcome President Meron's views on that.

A third question that is important for the completion strategy and its timetable is that of the transfer of cases to the region. We welcome the Prosecutor's plans to conduct a further review of cases in 2005, but I do want to underline our view that the key indictees — Mladic, Karadzic and Gotovina — have to be tried at the ICTY. I note also and take account of President Meron's more general point about the distinction between senior and less senior indictees.

A fourth and really important area for timely progress on the completion strategy is the delivery of at-large indictees to The Hague. This is really key to making efficient use of trial time. The United Kingdom is determined to maintain appropriate pressure on all countries to meet their obligations to cooperate with the Tribunal, assisting in the apprehension of fugitives and providing access to documents. We welcome Croatia's step change in cooperation with the ICTY. We think it important that Croatia continue to cooperate fully and, in particular, take steps to locate and transfer to The Hague fugitive indictee Ante Gotovina.

Bosnia's failure to cooperate fully with the ICTY, as we have heard this morning, represents, we think, a fundamental obstacle to Bosnia's Euro-Atlantic relations, so we call on the Republika Srpska authorities to demonstrate a credible and sustained effort to track down and transfer all fugitive indictees, in particular Radovan Karadzic, to The Hague. We fully support Lord Ashdown in his efforts to ensure that Bosnia and Herzegovina makes the changes necessary to be able to meet its ICTY obligations.

Turning to Serbia and Montenegro, we expect that Mr. Tadic's election will now enable the Government to take action to meet its international obligations, for cooperation is certainly a requirement, not an option. Continuing non-compliance will

frustrate any aspirations of Serbia and Montenegro to closer integration with Euro-Atlantic structures. We think that continuing hesitation is unacceptable. Claims of ignorance about the whereabouts of indictees are not sufficient. It is Serbia and Montenegro's duty to assist in their arrest and extradition to The Hague.

Turning to the work of the International Criminal Tribunal for Rwanda (ICTR), I should like to applaud the approach which puts the completion strategy at the centre of the overall management of the Tribunal. We welcome the evidence of shared responsibility throughout the Tribunal's organs for the overall work of the Tribunal, including the completion strategy, and we are encouraged that the ICTR appears likely to meet its completion strategy. Here, we welcome the trend towards shorter trials, which is helped by the innovative measures that President Møse has introduced. All, of course, will not be plain sailing. Budget arrears are one possible threat to the ICTR's completion strategy and we will explore with Security Council colleagues, among others, how to encourage States to pay their dues.

I want to note and agree with Prosecutor Jallow's belief that it is important to explore the possibility of transferring cases to African countries where certain suspects are now detained. Perhaps he could comment on whether he will be advising on the conditions necessary to allow that to happen. We assume, of course, that the majority of cases to be transferred will go to Rwandan jurisdiction. To conclude, I would be interested to hear the Tribunal's thinking on how that might best be assisted.

Mr. Baali (Algeria) (*spoke in French*): I should like to thank the Presidents and the Prosecutors of the International Criminal Tribunals for the Former Yugoslavia and Rwanda for their excellent briefings and for the highly commendable service they render daily to international justice and to our common cause of combating impunity.

Algeria attaches great importance to the two Tribunals' accomplishing the missions assigned them by the international community and implementing the objectives of the completion strategy. We welcome the progress made since our Council adopted resolution 1534 (2004) on 26 March. At the same time, the strategy approved by the Security Council seems already to be encountering several difficulties that could jeopardize the 2010 deadline for the completion of the proceedings. Reports to the Council and the briefings made this morning shed ample light on the nature of those difficulties and on the means for overcoming them.

From the outset, the financial and administrative dimension has been one of the most significant obstacles before the Tribunals. Indeed, the lack of staff, the inability to retain qualified staff, and the hiring freeze brought on by a lack of resources resulting from member States' non-payment of their contributions could seriously impede the Tribunals' work and compromise their ability to conclude the business before them. A solution must therefore be found to that problem as soon as possible. In that regard, the States concerned must promptly meet their financial obligations.

Moreover, we feel that the completion strategy could be facilitated if the intermediate- or lower-rank accused were referred to competent national jurisdictions. We therefore welcome the establishment of the War Crimes Chamber in Bosnia and Herzegovina and hope that it will be operational early in 2005. When conditions allow, we would also welcome the transfer of the cases of some detainees to the competent Rwandan jurisdictions. We further believe that the full and complete cooperation of all member States with the Tribunals in providing access to essential documents and in apprehending and bringing to justice all of the accused is necessary to the implementation of their mandates and objectives.

The Security Council must not and cannot remain impassive when the authority of the Tribunals and its own credibility are damaged by any State's failure to cooperate. It must — and it has the means to do so — provide full support to the Tribunals in a resolute and effective manner so that criminals who are still at large, such as Mr. Karadzic and Mr. Mladic, can be arrested and justice finally done.

The other challenge facing the Tribunals has to do with the expiration, on 6 November 2005, of the current mandate of the permanent judges and, on 11 June 2005, of that of the ad litem judges, at a time when it appears that the trials may continue beyond those dates, which could compromise the completion strategies. We believe that particular attention must be accorded to that question.

Mr. Sardenberg (Brazil): I would like to thank the high-level judicial authorities who addressed the

Security Council this morning and early this afternoon for their valuable presentations. Both the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) are part of a large effort to ensure that those most responsible for the most heinous crimes answer to them in public trials that meet the highest standards of international justice and due process.

As a member of the Security Council at the time, Brazil voted in favour of resolutions 827 (1993) and 955 (1994), which created the ICTY and the ICTR, respectively. We stressed, on those occasions, our preference for the creation of a permanent tribunal competent to judge potential perpetrators of genocide, war crimes and other serious violations against international humanitarian law in an independent manner. Thus we thought to respond to possible allegations that such tribunals were selective.

The Security Council has before it the challenge of adapting the inherent limitations of ad hoc judicial arrangements to the principle of due process and the rights of both victims and accused, as well as the overall objective of bringing an end to impunity.

It is necessary that the Tribunals remain attached to the goals set forth in resolution 1534 (2004), while concentrating resources and efforts so as to make sure that the most senior leaders suspected of being responsible for crimes within the jurisdiction of the courts are prosecuted. Given the difficulties presented by the presidency of the International Criminal Tribunal for the Former Yugoslavia in its latest assessment, Brazil believes that insisting on rigid deadlines, as set out in the completion strategy, may frustrate justice, rather than assist the international community to end impunity. The Council may eventually need to adjust those timetables in order to allow the Tribunals to fulfil their mandates.

Brazil received with serious concern the letter dated 4 May 2004 from the President of the International Criminal Tribunal for the Former Yugoslavia regarding substantial lack of cooperation with the Tribunal. Obligations under the Charter, the Tribunal statute and the rules of procedure and evidence, as well as the relevant Security Council resolutions, must not be disregarded. We urge States directly involved in the Tribunal's work to cooperate or to continue to cooperate fully with it, ensuring the speedy surrender of fugitives and of documents.

It is essential that the Tribunals continue to have adequate resources and personnel to perform their functions. Financial difficulties present a threat to the accomplishment of their duties and the ability to meet the completion strategies. Brazil has been making efforts to pay outstanding contributions to the Tribunals. A payment was made in December last year and another will be made shortly.

Brazil is concerned about the possibility that trials in cases continuing beyond the end of the term of current permanent judges might be slowed or disrupted due to the non-re-election of judges acting in those cases. Given the General Assembly's prerogatives in this matter, it is our view that any legitimate solution should be approved by it. In that regard, we favour consulting regional groups in order to seek the reconduction of judges acting in cases deemed essential to the completion strategy.

Mr. Dumitru (Romania): First of all, the Romanian delegation would like to welcome the presence here of the Presidents of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and of the International Criminal Tribunal for Rwanda (ICTR), Judge Meron and Judge Møse, as well as of the Prosecutors of the two International Tribunals, Ms. Del Ponte and Mr. Jallow. We would also like to thank our guests for their highly informative and comprehensive presentation of the most recent measures put in place to implement the completion strategies of the two Tribunals.

While we welcome the significant progress made in implementing the completion strategies, we are, however, concerned about the continued existence of a number of factors that could jeopardize the time frames set out in Security Council resolutions 1503 (2003) and 1534 (2004). We emphasize in this respect the importance of full cooperation by all relevant countries with the Tribunals, especially by arresting and handing over the principal fugitives, facilitating access to evidence and granting waivers of immunity to enable witnesses to provide statements or testify before the Tribunals.

We are of the view that an increased level of cooperation would also have a positive impact on relations between some of those countries and various international organizations.

Constantly reviewing the caseload of the Tribunals in order to retain on their docket only those

cases involving the most senior leaders, suspected of being most responsible for crimes within the jurisdiction of the relevant Tribunal is also essential for the successful implementation of the completion strategies. We would be interested to learn in further detail how the mechanism envisaged by the judges of the ICTY in this respect by amending the rules of procedure and evidence will further facilitate this process.

Nevertheless, we are of the opinion that the concept of senior perpetrators could be further adjusted, as the wording of resolution 1534 (2004) permits, so as to allow an even greater number of cases to be transferred to national jurisdictions. Of course, in putting forward such a proposal, we are well aware of the need that all the requirements relating to the full observance of fair trial, due process and international human rights have equally to be met. It is also in this context that we welcome the efforts jointly undertaken by the Tribunal and the Office of the High Representative in Bosnia and Herzegovina in establishing the War Crimes Chamber in Sarajevo, and encourage the authorities in Zagreb and Belgrade to take the requisite steps in order to overcome obstacles that would prevent the transfer of such cases to their national courts.

Insofar as the ICTR is concerned, we take note of the fact that the Prosecutor contemplates, in paragraph 39 of his report, the possibility that none of the cases might be transmitted to national jurisdictions, in which situation the Prosecutor may eventually consider alternate proposals to be made by the Security Council. Perhaps Mr. Jallow could comment on those alternate proposals.

While an increased number of guilty pleas entered by those accused at both Tribunals would undoubtedly facilitate compliance with the terms of the completion strategies, we are of the view that efforts to reach that objective should not result in compromising internationally recognized principles of due process, fairness and the rights of both the accused and the victims.

On the other hand, in the case of the ICTR, the limited number of accused who have pleaded guilty might lead to the worrisome conclusion that there is a substantial lack of awareness and willingness to assume responsibility for the grave crimes committed by a large majority of indictees.

Turning now to the issue of the end of the tenure of the ICTY's permanent Judges, which could also affect the implementation of the completion strategy, I should like to express Romania's readiness to further contribute to discussions within the Security Council aiming at identifying a viable and commonly agreed solution.

Mr. Pleuger (Germany): Because of the lateness of the hour, I promise that my statement will be limited to one short remark and two short questions.

First of all, I should like to join other delegations in thanking the Presidents and Prosecutors of both ad hoc Tribunals for their comprehensive and candid presentations, which underline the fact that both Tribunals are at an extremely critical stage of their operation. We realize that the successful implementation of the completion strategy depends on factors that lie within and outside the scope of the responsibilities of the Tribunals. Critical factors that lie outside the scope of the Courts' responsibility but within that of States on the Council are, notably, first, the punctual payment of assessed contributions; secondly, cooperation with the Tribunals; and thirdly, and in particular, the arrest of fugitives, notably Mr. Karadzic, Mr. Mladic and Mr. Gotovina.

We welcome the report of improved cooperation on the part of Croatia, and we are concerned about Serbia and Montenegro's poor record of cooperation, as reported by both President Meron and Prosecutor Carla Del Ponte. We urge all countries to cooperate fully with the Tribunals and to pay their dues, and we will push for appropriately strong Council reactions if countries do not cooperate with the Tribunals, as requested in particular by Prosecutor Carla Del Ponte.

We have taken note with great interest of President Meron's proposals with regard to the election of judges. The early holding of elections is welcome, and the Council should be open-minded with regard to the proposals concerning ad litem judges.

My first question goes to President Meron. He and Carla Del Ponte have drawn the Council's attention to Serbian non-cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY). Following the presidential elections in Serbia and Montenegro and the victory of Mr. Tadic, does he see a chance for better cooperation with Serbia and Montenegro, and what could the Council or third parties do to promote such cooperation? Are there, in

his view, any lessons that he or the Council can or should draw from the factors that led to the improvement of relations between Croatia and the ICTY?

My second question goes to Prosecutor Jallow. First of all, I should like to commend him for his dedicated efforts to improve relations with the authorities of Rwanda. This is very much appreciated and a very important basis for the referral of cases to Rwandese justice. My question concerns cooperation with authorities in the Democratic Republic of the Congo. He has reported that many of the 15 fugitives accused of war crimes and genocide are hiding out in the Congo, and he has also said that efforts to apprehend and transfer them to the seat of the Tribunal have borne little fruit so far. Can he please elaborate a little, perhaps, on the cooperation he has with the Congolese authorities to apprehend these criminals?

Mr. Rostow (United States of America): I wish to thank you, Mr. President, for your indulgence with regard to the schedule.

First of all, I should like to express the sorrow of my Government at the loss of the life associated with the United Nations Mission in Sierra Leone (UNAMSIL) civil helicopter which crashed this morning in Sierra Leone and to extend condolences to the families of the victims and to the Governments of their respective countries.

My delegation welcomes, of course, the appearance of President Meron, President Møse, Chief Prosecutor Del Ponte and Chief Prosecutor Jallow, and thanks them for their reports. The Council asked for those reports because of its strong support for the Tribunals' work, including their own completion strategies.

The United States has been and remains a strong supporter of both Tribunals. We support the efforts of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda to increase efficiency and fulfil their respective completion strategies to conclude investigations by the end of this year and trials of first instance by the end of 2008 and appeals by 2010. We also applaud efforts to strengthen local judicial systems so that lower-ranking defendants can be tried there.

We recognize that the process of building up judicial capacity is not a quick or easy one but that it is indispensable to bringing alleged war criminals to justice as well as to strengthening the rule of law in societies that recently have been the scene of grave conflict.

Implementation of the completion strategies depends principally on two things: first, United Nations Member States simply have to fulfil their obligations to support the Tribunals by, first, doing everything in their power to arrest fugitive defendants. As the Council has said repeatedly, Mr. Mladic, Mr. Karadzic and Mr. Gotovina must be tried at The Hague, and Mr. Kabuga must be tried at Arusha.

Regional countries must step up and meet their responsibilities with respect to bringing at-large defendants to the Tribunals. United States engagement with such countries is ongoing, as it has been in the past.

Secondly, all United Nations Member States have to fulfil their financial obligations to support the Tribunals. At this time, according to their own completion strategies, the Tribunals should be winding down their investigative work and preparing for final trials, understanding, of course, that the most important defendants at large have to be brought to justice, and that the completion strategies cannot be fully implemented without those defendants being tried. The United States is continuing to work to see that the high-ranking defendants are brought to justice before the Tribunals.

Mr. Karev (Russian Federation): I should like to express our gratitude to the Presidents and Prosecutors of the two Tribunals for their thorough briefings to the Security Council and for their assessments on prospects for the implementation of the completion strategies of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR).

We are pleased to note that the information provided shows that the authorities of both Tribunals are making every effort to complete their work within the time frames set out under resolutions 1503 (2003) and 1534 (2004).

I should like to note that the implementation of the completion strategies of both Tribunals does not mean that those who are guilty of crimes will be able to evade justice. Completing this complex task will require not only intensive judicial work but also the

implementation of a number of measures that relate in particular to the transfer of lower-ranking cases to the competent national jurisdictions, which will have to be fully prepared for them and will have to comply with international human rights standards and judicial norms.

In that regard, I should like to note the efforts that are being made by the ICTY, together with high-ranking Government officials, to establish a War Crimes Chamber in the framework of State organs. We hope that the Chamber will be able to begin its work by the start of 2005. We deem it necessary for intensive efforts to be continued in order to accelerate this process and undertake the transfer of relevant cases to the authorities of Croatia, Serbia and Montenegro, Rwanda and other countries.

We share the concern of the Presidents of the Tribunals about ensuring that the two Tribunals have qualified staff. We hope that, through the Secretary-General's efforts, those temporary difficulties will be overcome. In his statement, the President of the Tribunal for the Former Yugoslavia mentioned that he had made a proposal to the Council regarding the completion of the judges' mandate in November 2005. The Security Council is working on the matter of completion dates, and we hope that in the near future the Council will find a solution that is satisfactory to all parties. The essential thing is not to make decisions that violate universally accepted norms.

I will add a further question. In President Meron's briefing, there were some important points to be underlined. I am referring to the important question of pardons and the easing of sentences and to the question of mechanisms for reviewing sentences upon completion of the ICTY's work. We believe that it is important to provide answers to those questions, with respect to the Rwanda Tribunal as well. I ask whether the Presidents of the Tribunals have any comments in that regard.

The President: There are still a number of speakers remaining on my list for this meeting. I intend, with the consent of the members of the Council, to suspend the meeting until 3 p.m.

The meeting was suspended at 1.10 p.m.

United Nations S/PV.4999 (Resumption 1)

Security Council

Fifty-ninth year

Provisional

4999th meeting

Tuesday, 29 June 2004, 3 p.m.
New York

President:	Mr. Baja	(Philippines)
Members:	Algeria	Mr. Djeffal
	Angola	Mr. Lucas
	Benin	Mr. Zinsou
	Brazil	Mr. Baumbach
	Chile	Mr. Donoso
	China	Mr. Guan Jian
	France	Mr. Florent
	Germany	Mr. Much
	Pakistan	Mr. Khalid
	Romania	Mr. Onisii
	Russian Federation	Mr. Kuzmenkov
	Spain	Mr. De Palacio España
	United Kingdom of Great Britain and Northern Ireland	Mr. Watson
	United States of America	Mr. Jones

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter dated 21 May 2004 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2004/420)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-40796 (E)

Letter dated 30 April 2004 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council (S/2004/341)

The meeting was resumed at 3.15 p.m.

Expression of sympathy in connection with the helicopter crash in Sierra Leone

The President: Members of the Security Council have learned with deep distress of the crash of a helicopter of the United Nations Mission in Sierra Leone (UNAMSIL) earlier today. It carried more than 20 United Nations and non-United Nations personnel. On behalf of the Council, I should like to express profound sympathy and condolences to the bereaved families and to the Governments of the victims of this grave incident. They gave their lives in the cause of peace while serving with UNAMSIL. The international community is deeply saddened by this tragic loss.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter dated 21 May 2004 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2004/420)

Letter dated 30 April 2004 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council (S/2004/341)

Mr. Zinsou (Benin) (*spoke in French*): I should like to join my delegation's voice with yours, Mr. President, in expressing our condolences and sympathies to the families of the victims of the accident that just took place in Sierra Leone.

Permit me to thank the Presidents and Prosecutors of both International Tribunals for the exhaustive reports they just presented to us. We have been able to appreciate the important contributions they are making to the fight against impunity for war crimes, genocide and crimes against humanity.

Ten years after the genocide in Rwanda and five years after the end of the war in the Balkans, the Security Council can welcome the efforts that have been made. Those efforts are the best way to prevent the repetition of or discourage behaviour that might promote such crimes. We also share the international community's concern to ensure that both Tribunals resolutely carry out the completion strategy for their work within a specific time frame. The Council, in resolution 1534 (2004), provided clear guidelines for the assessments required in that regard.

We commend the Tribunals for presenting convincingly to us the prospects for their future work within the context of trying cases falling under international legal jurisdiction, for providing us with an assessment and for giving us a better idea of the constraints involved in transferring to national jurisdictions cases that, by their nature, might fall under their purview. Thanks to that rigorous assessment effort, we have a rather clear view of the advantages that might result from implementation of the completion strategy and of the bottlenecks that we face if the appropriate measures advocated by the Tribunals are not diligently taken.

In that context, my delegation would like to focus on two points: the factors influencing the strategy's implementation and the factors bearing on the Tribunals' capacity to try their cases on time.

On the first point, we share the concerns expressed by the Tribunals on the recruitment freeze and on the impossibility of their maintaining qualified staff. We must also find a solution to the problem of the salary freeze in the Investigation Section so as not to further hinder the continuation of proceedings.

We acknowledge that these factors are a serious handicap to the functioning of the Tribunals. We fully

agree with the Secretary-General's view on this question. The essentially financial bases of the situation must be taken into account by the Security Council. We propose that it appeal urgently to Member States to show their commitment to the campaign against impunity by providing the resources necessary to combating it.

With respect to the ability to bring cases to trial according to schedule, we have complete trust that the judges will adopt strategies of their choice in order to accelerate the trial process. We know, however, that the quest for speed must not compromise the principles of equitable international justice. Moreover, we believe that it is necessary to reconcile the mandates of the judges with the length of the trials, of course in the interest of the defendants. Furthermore, the cooperation of Member States concerned is crucial in making defendants available to the Tribunals, because only in that way can we prevent those who are responsible for serious crimes from evading international justice.

As to the decision to refer lower-rank accused to national jurisdictions, we believe that special attention should be given to strengthening the capacities of the judicial systems of those countries so as to ensure that those who are transferred enjoy impartial justice in accordance with international norms. In that regard, we support the proposal made by the Tribunals that the possibility be considered of entrusting trials to countries that have operational judicial systems. Furthermore, in the cases of collective crimes, such as those in Rwanda, the principle of individual responsibility should be weighed against the promotion of national reconciliation. The case of genocide in Rwanda is extremely complex and serious, and should be addressed with circumspection because, when a crime is committed on such a large scale, the evil is no longer individual and becomes societal. Any solution must seek to help the societies concerned to reconcile themselves with themselves.

While impunity is intolerable at any level, be it in Rwanda or the countries of the former Yugoslavia, the Tribunals should remain aware of the cultural sensitivities of the populations of those countries and bear in mind that the principal task is to maintain peace and to create harmony among the various ethnic groups that are called on to live together. That is why pardons and truth and reconciliation commissions should be considered wherever possible.

In conclusion, I reiterate Benin's support for the two Tribunals, because the establishment of a lasting peace in those countries, through their own actions, will depend to a certain extent on the clear-sightedness, rigor and flexibility with which they undertake their mission.

Mr. Guan Jian (China) (*spoke in Chinese*): At the outset, allow me, like the speaker before me, to express my condolences over the tragedy of United Nations and other personnel killed in the crash in Sierra Leone.

We have listened with great interest to the briefings of Presidents Meron and Møse and Prosecutors Del Ponte and Jallow on the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). We thank them for the work of the Tribunals. We appreciate the positive measures adopted by the Tribunals to implement the completion strategy. We believe that they are rightly focused on the prosecution and trial of the senior accused. Furthermore, the measures taken by the Tribunals to encourage suspects to turn themselves in and to plead guilty are also effective means of accelerating the trial process.

We believe that the two priorities in the work of the Tribunals are to transfer cases to the domestic courts of the countries concerned as soon as possible and to ensure the continuity of the trial process. We note the fact that the War Crimes Chamber of Bosnia and Herzegovina is expected to be operational in 2005. We hope that the countries of the former Yugoslavia and those under the jurisdiction of the Rwandan Tribunal will be able to assume responsibility for the trials of the relevant cases. The two Tribunals and interested countries should provide those that have agreed to take those cases with the legal, technical, financial and personnel support so as to enhance their legal capacities and allow them to attain the standards of a fair trial as soon as possible. After the two Tribunals have confirmed that appropriate conditions exist, the cases of intermediate- and lower-rank accused should be handed over to the domestic courts of those countries for trial.

We believe that the current situation shows that the smooth implementation of the completion strategy requires cooperation between the countries of the regions involved. The Security Council, the countries

concerned and the two Tribunals can also play a role in exploring how to establish domestic courts and to ensure the continuity of the Tribunals' work. We believe that certain technical issues must be addressed, but we maintain that appropriate measures should be taken to permit experienced judges to concentrate on completing the trials. We are open to any proposal that will contribute to the continuity of the work of the two Tribunals.

Mr. Lucas (Angola): I join previous speakers in expressing the condolences of my delegation to the United Nations and to the families of the victims of today's accident in Sierra Leone.

My delegation welcomes and thanks the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their reports on the work of the Tribunals and on the implementation of the completion strategy set out in resolution 1503 (2003). We view the work of the Tribunals as an important contribution to addressing the challenges of justice by ending impunity, to the process of healing the bitter divisions of the past, to the strengthening of national reconciliation and to the restoration of peace and security in the Balkans and in the Great Lakes region.

We are pleased that the two Tribunals are now fully operational, providing fair and impartial trials to the indicted and rendering justice to the victims and protection to the witnesses. Notwithstanding the efforts and progress accomplished, the time frame set for the completion of trials seems to be difficult to meet unless further measures are taken. In this regard, we consider international cooperation to be a vital element for the successful conduct of the Tribunals' work with respect to the execution of the arrest warrants, provisional detention and the transfer of suspects and accused persons to the Tribunals' seats.

We stress the importance of the provisions of resolution 1503 (2003) relating to the cooperation to be extended to the ICTY and the ICTR by the States in their respective regions. This is an important factor in the investigation process in bringing to the dock all indictees still at large and for the full implementation of the completion strategy.

As far as Angola is concerned, the case of General Agustin Bizimungo, former Chief of Staff of the Rwandan Army, arrested in Angola and transferred to the custody of the International Criminal Tribunal for Rwanda, demonstrates how Angola is committed to the implementation of relevant Security Council resolutions, especially those related to the required international cooperation with the Tribunals.

The transfer of cases to national jurisdictions for trial is also a critical element to the success of the completion strategy, as the Security Council noted in its resolution 1503 (2003). We are encouraged by the arrangements for the transfer of cases from the ICTY and the ICTR to national courts.

Specifically regarding ICTR, we are encouraged by the progress achieved by the Tribunal over the past few years, as illustrated by the 15 condemnations involving 21 accused, rendered since the start of trials in 1997. In that regard, we stress the importance of resolution 1512 (2003). The reinforcement of the Tribunal's capacity with the increase in the number of ad litem judges, which, coupled with the appointment of its own Prosecutor and the establishment of an independent appeals unit, facilitates the efforts of the Tribunal to meet its targets set by the Security Council for the completion of trials. Nevertheless, if the completion strategy is to achieve its purpose, we think that the international community has a collective responsibility to ensure that the ICTR receives all the required financial and administrative resources in order to successfully fulfil its mandate.

To conclude, we hope that the completion strategy of the ICTR will continue to focus on its overall purpose of contributing to peace and stability in the region. Therefore, we stress the importance of allocating enough resources for activities that will complement long-term reconciliation efforts undertaken by the Government of Rwanda. It is our belief that the international community will continue assisting the people of Rwanda by rendering justice and fighting impunity to overcome the bitter legacy of genocide.

Mr. Khalid (Pakistan): We also join the other delegations in conveying our deepest condolences to all the bereaved families over the tragic loss of human life in the helicopter crash in Sierra Leone. We understand that on board were also Pakistani peacekeepers, who died in the accident, and we thank the Council members who have expressed their grief and sorrow over this tragic loss, and we will be conveying those sentiments to Islamabad.

We would like to thank the Presidents of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY), as well as their two Prosecutors, for their comprehensive and very useful presentations today.

Pakistan attaches great importance to the role played by international tribunals set up by the United Nations to prosecute crimes against humanity under the genocide conventions and international humanitarian law. The cornerstone of our policy is to promote respect for and compliance with international law. We support all efforts aimed at increasing the efficiency of the ICTY and the ICTR. We hope that these efforts will help in the fulfilment of the completion strategy of these two Tribunals.

We appreciate the efforts of the two Tribunals in pursuance of the completion strategy, as reiterated in resolution 1534 (2004). We have taken note of the difficulties the two Tribunals are currently facing and how that might affect their completion strategy. Pakistan stands ready to contribute to the efforts of the two Tribunals to fulfil their completion strategies. We also believe that there is a need for all States to cooperate fully with the two Tribunals.

We are heartened to note the statement by the Prosecutor for the ICTY that completion of the investigations of the remaining un-indicted high-level targets will be achieved as planned by the end of this year. We are also pleased to know that the ICTR is on schedule. We understand that the cases at the ad hoc Tribunals are legally and factually very complex. We have also noted the efforts of the Tribunals to address such complexities.

Before concluding my brief remarks, I would like to address a question to the President of the ICTR: How would the arrest of 15 indictees and 16 suspects who are at large affect the completion strategy if some of those at large are not arrested soon or are arrested after 2010?

Mr. De Palacio España (Spain) (*spoke in Spanish*): I wish to join others in expressing my condolences at the tragic loss of human life of personnel of the United Nations Mission in Sierra Leone in the accident that occurred this morning.

I also wish to thank the Presidents and Prosecutors of both Tribunals for their statements and their thorough assessments. Allow me to make a few brief observations and to formulate a question.

The assessments of both Tribunals confirm that much remains to be done to complete the transfer of certain cases to national jurisdictions. Despite some encouraging data, it is disturbing that the Tribunals of the affected States are still not in a position to judge with full guarantees persons indicted by both Tribunals. In order to be able to act appropriately, it would be important to clearly determine which of these cases are due to limitations of a material nature and which are due to a lack of political will.

With regard to the International Criminal Tribunal for the Former Yugoslavia (ICTY), as pointed out in the report of the Prosecutor, Mrs. Del Ponte, Spain believes that the possibility of transferring to national jurisdictions not only cases related to mid- or low-ranking indictees, but also some high-ranking suspects, must not be dismissed, due to exceptional current circumstances. Rather, it should be considered very carefully and on the basis of a detailed case-by-case study.

Spain views with great concern the precarious financial state of both Tribunals. This is an ongoing and unacceptable situation. Successive changes in the Tribunal's work programmes, as a result of non-payment of contributions, would be a distressing message to the international community, and we make an appeal that that be avoided.

Equally concerning is the unsatisfactory cooperation of some States, which are most directly affected. Even though we welcome the improvement in the assistance given by the Croatian authorities, we must also mention the specific cases of Serbia and Montenegro. Regarding the latter country, we believe that the situation requires firm and decisive action by the Council. Even though everything seems to indicate that the recent elections have generated more promising hopes to put an end to a substantial lack of cooperation with the International Criminal Tribunal for the Former Yugoslavia, we believe that the Council must not lower its guard and must act appropriately.

I also wish to refer to the impact the expiration of the mandates next year of the permanent judges and the ad litem judges will have on the trial process. The Spanish Government continues to believe that any corrective measures must be based on respect for the prerogatives of the General Assembly. In particular

reference to the ad litem judges, we believe that the delicate situation of the Tribunals should lead us to not exclude from the outset the possibility of allowing their re-election. Alternatively, the Council could actively encourage the election of current ad litem judges who are put forward as candidates to fill the posts left vacant by outgoing permanent judges.

I wish in conclusion to ask the Presidents of both Tribunals whether, since their last appearance before the Council, there has been any significant progress in negotiations on agreements with various third States with respect to carrying out sentences imposed by the Tribunals. My delegation had had a few more questions, but I believe these were covered by previous speakers.

The President: I shall now make some brief comments in my capacity as the representative of the Philippines.

First, we join colleagues in extending condolences to the families and the Governments of those who perished in the unfortunate helicopter crash in Sierra Leone.

We would like also to thank the Presidents and the Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their comprehensive and informative presentations this morning. We recognize the challenge facing the courts in completing their respective tasks and winding up their operations in accordance with the completion strategies, in accordance with resolution 1503 (2003). We appreciate the measures they have adopted to fulfil their completion strategies. We urge the courts to stick by the timeline established under resolution 1503 (2003) and to exert every effort to implement those strategies.

In March of this year, the Council reaffirmed the strategies by its resolution 1534 (2004). To prove that the Council was cognizant of the difficulties faced by the courts, we asked the courts to focus on "the most senior leaders suspected of being most responsible for crimes within [their] jurisdiction" (*resolution 1534 (2004), para. 5*) in order to free the courts from being saddled with volumes of cases that are best left to local courts. This morning, however, we took note of Judge Meron's comments on this element of focusing on the most senior leaders.

One important strategy for streamlining the handling of cases and for complying with paragraph 5 of resolution 1534 (2004) is to turn over as many cases as possible to local courts, not only for trials but also for appeals. That should clear considerable space in the dockets of the courts and enable them to fulfil their completion strategies. In that regard, all efforts must be made to implement rule 11 *bis* of the Rules of Procedure and Evidence, regarding referrals. While we understand the difficulties cited in the reports (S/2004/341 and S/2004/420), we nevertheless call on the Tribunals to pursue the strategy explicitly provided for in rule 11 *bis*.

We appreciate the report that both courts are currently operating at maximum capacity. My delegation would therefore support proposals to ease some of the factors that might have a bearing on the implementation of the completion strategies. A specific example is the lifting, in exceptional circumstances, of the general hiring freeze imposed on the Tribunals, which is described in the ICTY report as a "clear and present danger" (*S/2004/420, enclosure I, para. 53*) to the accomplishment of the court's goals. We will support such lifting after consultations with other members of the Security Council.

To encourage the retention of qualified staff who, understandably, would look for other opportunities outside the Tribunals when these are destined to end soon, we will also support a change in the classification of posts in the Tribunals, making personnel eligible to apply for other positions in the United Nations.

Finally, the Tribunals cannot function without the cooperation of Member States. In particular, the President and the Prosecutor of the ICTY have brought to the attention of the Council the fact that the court has received little or no cooperation from a Member State whose representative will be allowed to address the Council in a few minutes. We would like to hear the reply to that observation of the ICTY.

I now resume my functions as President of the Security Council.

The next speaker is the representative of Bosnia and Herzegovina. I invite him to take a seat at the Council table and to make his statement.

Mr. Kusljugić (Bosnia and Herzegovina): My delegation joins previous speakers in expressing

deepest condolences to the families and the Governments of the United Nations personnel killed today in a tragic accident in Sierra Leone.

It is my privilege to address the Council at such an important meeting. Allow me, before I go any further, to express the appreciation of my Government to the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), the Honourable Judge Theodor Meron, and to the Prosecutor, Ms. Carla Del Ponte, for their comprehensive and detailed briefings. It is comforting to know that my Government and the two most important officials of the ICTY have almost identical views concerning the role, the purpose, the main goals, the obstacles and the closing-down strategy of the Tribunal. Furthermore, we have nothing but praise for the results the Tribunal has achieved so far in tackling the nearly insurmountable task of individualizing and processing countless unspeakable crimes; this will eventually enable the peoples of my country to lay down the heavy load of the past in order to catch up with the far fitter and lighter remainder of Europe.

The unprecedented international agreement known as the Dayton Peace Accord has been analysed and scrutinized ever since its conception. It has its friends and its foes; it has its up-sides and its flaws. But one simple fact has never been disputed: it is a powerful instrument of international law. It created obligations for the parties involved that have to be observed and obeyed. And it is fair to say that my Government never denied its obligations stemming from that agreement — just as it is fair to say that the international community never missed an opportunity to remind us of those obligations. Cooperation with the ICTY was always the first thing to be mentioned, whether as a condition for membership of the Partnership for Peace, as a requirement with regard to the Stabilization and Association Agreement with the European Union, or as a mighty stick in the hands of the High Representative — a stick that certain elected officials feared most of all.

This is neither the time nor the place to go on repeating our recent achievements and successes in implementing the Dayton Peace Accord, like a schoolboy trying to defend himself before his strict parents by bragging about his outstanding performance on the football field while having failed mathematics. But in all fairness, Bosnia and Herzegovina has done a lot when it comes to cooperation with the ICTY since the last report of the President and the Prosecutor of the Tribunal. The question here is: How much is enough? And can we make it on our own?

In the years 2003 and 2004, cooperation with the ICTY has been the number-one priority of the Government of Bosnia and Herzegovina. All the required legislation is in place; both entities have laws on cooperation with the ICTY; the criminal code has been amended with a provision regarding war crimes; the Special Chamber of the State Court will be operational soon, pending the availability of the funds donated by the international community — and here I join the plea of Judge Meron for speedy completion of the financing requirement; and the newly established State Information and Protection Agency will be fully equipped and trained for apprehension of the war crime indictees who are at large and for witness protection. In short, all the institutional requirements are in place.

According to last year's report of the State Prosecutor's office, 9,641 persons in Bosnia and Herzegovina were reported as potential suspects in war crimes: 7,120 in the Federation of Bosnia and Herzegovina and 2,521 in Republika Srpska. Four thousand five hundred ninety-six cases were sent to The Hague for further assessment. In total, 350 persons were accused of war crimes. Out of that number, 127 persons, all of them from the Federation of Bosnia and Herzegovina, were tried and sentenced for war crimes. Six of the highest-ranked former officials of the so-called Croatian Republic of Herzeg-Bosnia have voluntarily surrendered to the Tribunal, even though — for whatever reason — their indictments were never served to the Government of Bosnia and Herzegovina.

There are countless examples of judicial assistance extended by the local courts of the Federation of Bosnia and Herzegovina to the Tribunal. Thousands of pages of relevant documents, including 16 crates of war archives from the Ministry of the Interior of Republika Srpska, were surrendered to the Tribunal. Not two months ago, the leading elected officials of the State and both entities signed a pledge of full and unconditional cooperation with the ICTY, naming it again as their number-one priority. In addition, several attempts to arrest indictees — some in cooperation with the Stabilization Force and some independent — have been made recently. Yet all these efforts are deemed to be insufficient by the international community, creating an insurmountable obstacle to our joining the Partnership for Peace and

placing a colossal roadblock on our path towards membership in the European Union. Hence, we remain the hostages of Radovan Karadzic and the like, who see our difficulties as their strengths and our failures as their victories.

The story of the ICTY is not only the story of indictments and arrests, sentences and appeals, closing statements, plea bargains and admissions of guilt — however significant and important those are in setting the record straight. The real drama unfolds in the minds and souls of ordinary people. It would be unfair to them if I did not mention what is possibly the greatest joint achievement of the international community and local elected officials — one that marks a turning point in the post-war history of my country. The recent report of the Special Commission of the Government of Republika Srpska on the events in and around Srebrenica between 10 and 19 July 1995 — the Bosnian Srebrenica report — as well as the statement by Mr. Dragan Cavic, President of Republika Srpska, and the reactions of the general public, lead us to believe that a turnaround is beginning to happen in the collective conscience of the peoples of Bosnia and Herzegovina: from total denial to acceptance of responsibility, from a priori blaming others to accepting blame oneself, and from general and impersonal remorse all the way to redemption and, eventually, catharsis.

The President: The next speaker inscribed on my list is the representative of Rwanda. I invite him to take a seat at the Council table and to make his statement.

Mr. Ngoga (Rwanda): My delegation would like to join others in expressing our condolences to the Member States that lost nationals in the helicopter crash in Sierra Leone. We also express condolences to the United Nations.

My delegation would like to thank you, Mr. President, for having convened this meeting, during which we have heard reports from the Presidents and Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and of the International Criminal Tribunal for the Former Yugoslavia (ICTY).

We would also like to thank and congratulate the President of the ICTR, Judge Møse, and Prosecutor Hassan Jallow, for their statements and reports.

Rwanda continues to hope and expect that the Tribunal will bring to justice the perpetrators of the 1994 genocide, and we pledge our continued support to ensure that its work runs as smoothly as possible. We are particularly encouraged by the acknowledgement of President Møse and Prosecutor Jallow that Rwanda has been cooperating with the ICTR, and we reassure the Council that we shall continue to extend necessary cooperation to the ICTR throughout its mandate.

Since we met for the same purpose last year, we have witnessed a significant level of improvement in the work of the Tribunal as a result of measures taken by the Council. We once again congratulate the Council for the decision contained in resolution 1505 (2003).

The ICTR now has its own Prosecutor. As anticipated, that appointment has resulted in a better organized and more focused Office of the Prosecutor. There is both a qualitative and quantitative improvement in overall performance. There has also been a dramatic improvement and broadening of communication between my Government and the Office of the Prosecutor. Rwanda is committed to continuing to work closely with the Office of the Prosecutor and to provide the support and facilitation that we have been providing over the years.

We also commend the Chambers, and particularly Judge Møse, for recent initiatives aimed at improving the efficiency and effectiveness of their work. We also note and commend the contributions of the Registry, particularly Mr. Adama Dieng, for their invaluable contributions.

There are a few issues of great importance which we would like to bring to the attention of the Council, and we request that these issues be given attention by the Council at this time, when it is considering the completion of the work of the ICTR.

When the Office of the Prosecutor first presented its completion strategy, as many as 300 cases of suspects considered to be the most responsible were targeted for prosecution before the Tribunal completed its work. These most responsible suspects are the persons accused of the greatest level of responsibility for the genocide. That figure, however, fell soon afterwards — first to 250 and then to 150. Now it is less than 50.

While the number of most responsible suspects being pursued by the Tribunal may have decreased, the seriousness of the accusations against some of those suspects, who are no longer being pursued by the International Criminal Tribunal for Rwanda, requires the attention of the Security Council so as to ensure that they do not evade justice altogether. My delegation would like to request the Council to seriously consider this matter with a view to ensuring that there is no impunity, and that those suspects face justice. We therefore do not see the Tribunal's completion strategy as an exit strategy for the international community. We believe that the international community, and particularly the Council, has a responsibility to bring those suspects to justice, whether at the ICTR or elsewhere.

Rwanda will continue to work bilaterally with the countries where those suspects currently reside, with a view to having them transferred to Rwanda for prosecution.

My Government looks forward to the transfer of cases from the Tribunal to Rwanda, in compliance with resolution 1503 (2003). The people of Rwanda, who have felt alienated from the Tribunal, which is based hundreds of miles away, would be able to observe the trials first-hand. We believe that that would contribute significantly to the reconciliation process by giving a sense that justice is being done.

There has been concern expressed about the fact that the death penalty remains on Rwanda's statute books. I would like to take this opportunity to reiterate assurances that we have given to the ICTR that my Government is prepared to waive the death penalty with respect to cases transferred from the ICTR. We are in the process of exploring the necessary legal avenues to realize this general principle in a manner consistent with the wishes of the Rwandan people in their legislative strategy and in accordance with the specific demands of the International Tribunal.

My Government would like also to take this opportunity to state that it would welcome support for our judicial institutions as we prepare for the transfer of these cases. While we have made tremendous progress in rebuilding our judicial institutions — which, like everything else in Rwanda, were decimated by the genocide — we would appreciate support in the provision of additional practical training for our legal professionals.

The international community is expected to support Rwanda, as we are making great efforts to invest in the rule of law based on strong judicial institutions. We do not expect the international community, given our resource constraints, to set conditions against us, not even when the transfer of cases is being considered. The best legacy that international involvement in the process of justice can leave to Rwanda is to build strong judicial institutions for posterity.

Rwanda would like convicts to begin serving their sentences in the country. We believe that sentences should be served where the crimes were committed. It is difficult to imagine that sentences could be strictly enforced in countries thousands of miles from where the crimes took place, where there may be scant understanding of, or regard for, the seriousness of the crimes.

Let me give an example. In April, while the world marked the 10-year commemoration of the genocide in Rwanda, convicts serving their sentences in Mali were permitted to leave their detention facility and make telephone calls around the world, including one to the BBC Kinyarwanda service. They did an interview with the BBC in which they denied that the genocide ever took place, and they promised to return to Rwanda. Those statements were deliberately calculated to cause fear among the already traumatized genocide survivor community.

It has since come to our attention that it is routine practice for convicted persons serving sentences in Mali to be allowed out of the detention facility to make telephone calls. I do not think that I need to remind anyone here that these are persons convicted of the most serious crimes imaginable. Not only do we find this deeply offensive — especially coming, as it did, at a time when we were remembering the one million victims of the genocide — but it also calls into question the notion of convicts serving sentences outside Rwanda. We call upon the authorities of the ICTR to ensure that countries compromised by the events of 1994 are not given the opportunity to supervise enforcement of sentences. Should this happen, justice will not be seen as having been done. This will be the case even if the decision is taken out of goodwill.

My Government is aware of the fact that previous requests for sentences to be served in Rwanda have not

been taken seriously, on the grounds that our detention facilities did not meet international standards. In that context, my Government, despite many competing priorities for resources, recently constructed a new detention facility that meets required standards. A delegation from the ICTR visited the new facility a few weeks ago, and my Government was pleased with the preliminary assessment by that team, which made it clear that the facility met the required international standards.

We therefore look forward to convicts being sent to Rwanda to serve sentences in the country. We believe that this will contribute to the reconciliation process, as justice will not only have been done, but will also have been seen to be done.

We take note of the Prosecutor's remarks regarding the issue of special investigations, and we welcome his continued engagement with the authorities of Rwanda on this matter.

Many of the survivors of the 1994 genocide live in conditions of enormous hardship. We urge the Council to recognize the numerous difficulties faced by those survivors — particularly orphans, widows and victims of sexual violence. We also urge the Council to recognize that most survivors are poorer and more vulnerable today than they were 10 years ago as a result of the genocide. In particular, we would like to draw the attention of the Council to the plight of the thousands of women who contracted HIV as a result of being raped. While the people who either raped them or ordered them to be raped can receive the best of care under the auspices of the United Nations, through the International Tribunal, their victims are dying in large numbers. This has not been given the necessary attention in the context of witness protection, because these are the people who are expected to testify in the cases that are under way in Arusha. We therefore appeal to the Council and to other members of the international community to provide urgent assistance to those women and to other survivors of the genocide.

The President: The next speaker is the representative of Serbia and Montenegro, to whom I give the floor.

Mr. Kaludjerović (Serbia and Montenegro): At the outset, I should like to express my condolences to the United Nations and to the families of the victims of the tragic incident that took place this morning in Sierra Leone.

Allow me, Sir, to thank you for this opportunity to state my Government's position on the question under consideration. I would also like to thank the Presidents and the Prosecutors of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their comprehensive briefings.

Serbia and Montenegro is committed to the administration of international justice through the establishment of individual criminal responsibility for all those who perpetrated crimes throughout the wartime conflicts in the territory of the former Yugoslavia. The truth that has been established in the proceedings of the International Tribunal is of pivotal importance for achieving a historical perspective on the tragic events that afflicted all of the peoples of the former Yugoslavia as well as for finally ending the legacy of the Milosevic regime.

Therefore, we consider our cooperation with The Hague Tribunal to be both our domestic and international obligation. Most of the persons indicted by the Tribunal committed, first and foremost, a crime against their own people. The Serbian people have never before been accused of genocide or ethnic cleansing. Moreover, we consider that the establishment of the truth in the proceedings of the International Criminal Tribunal as well as of national courts will contribute to the promotion of mutual trust and reconciliation in the territory of the former Yugoslavia.

Resolution 1503 (2003) endorsed a completion strategy for the Tribunal, and Serbia and Montenegro joins others in supporting the envisaged timetable for the completion of the ICTY's work.

Strengthening national legal systems, as emphasized in Security Council resolution 1503 (2003), will contribute significantly to the Tribunal's completion strategy. My Government appreciates the efforts of the United Nations Development Programme (UNDP) in organizing a visit to the Tribunal by judges from the Department for War Crimes at the Belgrade District Court, with the aim of transferring knowledge and experience from the practice of the Tribunal, as well as establishing channels of communication between the Special Court and the ICTY. We also welcome the stated commitment of the ICTY to support the holding of credible war crimes trials that

meet international norms of due process in all States of the former Yugoslavia.

My country has independently initiated a number of proceedings against perpetrators of war crimes. In proceedings before the national courts of Serbia and Montenegro as many as 17 persons have been convicted of war crimes and sentenced to prison terms ranging from eight years to the maximum penalty of 20 years. The Council for War Crimes of the District Court in Belgrade is currently investigating the cases of Hladnjaca, Petrovo Selo, Batajnica and Petrucica, with international assistance in exhuming the bodies and providing forensic analysis.

While reaffirming that we are fully aware of our obligations to the ICTY, we feel it necessary to repeat that any evaluation of cooperation must be based on facts, not on preconceived political perceptions. My Government has carefully studied the report before the Council today. We have given particular consideration to the assessments of the cooperation of Serbia and Montenegro with the ICTY and the criticism advanced by the Prosecutor's Office regarding insufficient cooperation with the Tribunal. In that connection, I would like to highlight some important points.

Cooperation with the Prosecutor's Office was of somewhat lower intensity due to circumstances stemming from the political situation of the country — the protracted process of setting up the new Serbian Government and appointing the Council of Ministers of Serbia and Montenegro, as well as the presidential elections in Serbia. At the time, all energies were focused on ensuring the country's political stability, preserving and building institutions and continuing the initiated reform processes.

Even in the face of such difficulties, at a time when the new National Council for Cooperation with the Tribunal had not yet been constituted, efforts were made to sustain a basic level of cooperation with the Tribunal. Regular, almost daily contacts at the working level were maintained between the Office of the Prosecutor and Belgrade. More than 50 requests by the Prosecutor's Office were responded to by providing the requested documents, granting waivers and by providing relevant information. An investigative team is expected to come to Belgrade in the next few days, and it will be granted access to the archives of the Ministry of Foreign Affairs.

Now that, in Sunday's elections, the citizens of Serbia have strongly reaffirmed their commitment to democracy, internal political conditions have been created for the Government of Serbia to honour its obligations to the ICTY as soon as possible. I assure the Council that cooperation with the Tribunal, primarily with the Prosecutor's Office, will be one of our foreign policy priorities.

My Government is aware of the fact that cooperation with the ICTY is its obligation and that still more needs to be done in that respect. Cooperation with the Tribunal is a process my Government will continue, maintaining efforts to improve that cooperation as part of its fulfilment of Serbia and Montenegro's goal of taking further steps towards Euro-Atlantic integration.

Given that over the past few years we have summoned the will to hand over or assist the transfer to the Tribunal of the highest ranking former political and military leadership, including Slobodan Milosevic, Milan Milutinovic, Dragoljub Ojdanic and others, unprecedented in the recent history of any State, the Council may rest assured that in the near future we shall continue to cooperate with the Tribunal along the same lines.

The President: The next speaker inscribed on my list is the representative of Croatia, whom I invite to take a seat at the Council table and to make his statement.

Mr. Drobnjak (Croatia): Let me begin by expressing Croatia's deepest condolences at the tragic loss of life in the line of duty in Sierra Leone.

Croatia highly commends the reports of the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and of the Prosecutor (S/2004/420). The two documents provide a solid, well researched base for further work towards the successful implementation of the completion strategy. Their reports also accurately take note of the major effort Croatia has made for full and uncontrained cooperation with the ICTY. I take this opportunity to thank the ICTY President and the Prosecutor for their words of praise for Croatia's cooperation with the Tribunal.

Today, I am happy to state that Croatia has fulfilled all its obligations to the Tribunal, including its financial obligations, save one. Regarding the case of

General Ante Gotovina, whose indicted person still remains at large, the Croatian Government, as stated in paragraph 42 of the Prosecutor's report, is currently doing everything it can to locate and arrest him. Croatia is especially pleased that the Government's efforts in this particular regard did not go unnoticed by the Tribunal.

Fulfilling the completion strategy for meeting the 2008, 2009 and 2010 deadlines, as outlined in Security Council resolutions 1503 (2003) and 1534 (2004), must remain the Security Council's priority. Croatia stands ready to contribute to that goal as much as possible. The Tribunal's work and its significance for long-lasting post-conflict stability in South-East Europe should be judged not only by its judicial work but also against the background of its timely closure. The past must not be forgotten, but it should not overshadow the future. In 2010, when the Tribunal is scheduled to complete all its work, the issues of European integration, regional cooperation, economic prosperity and foreign investments ought to entirely dominate headlines throughout the region.

The transferral of cases to competent national jurisdictions for trial is one of the pillars of the completion strategy. Croatia is ready to take a number of cases from the Tribunal and is preparing Croatian judges and prosecutors for that serious task. I would like to inform the Council that in May and June of this year, ICTY representatives, together with Croatian legal experts, took part in training programmes for the Croatian judiciary. That important exercise was organized by the Croatian Ministry of Justice, in cooperation with the ICTY Registry. Another similar programme will run until October of this year and will involve approximately 60 Croatian legal professionals. Recently, a conference including the ICTY Victims and Witnesses Section and health and welfare professionals from Croatia was organized with a view to discussing the physical, emotional and psychological needs of witnesses. The purpose of the conference was to discuss how the establishment of health and welfare networks throughout Croatia could assist in providing preparation and follow-up services for witnesses who testify at the Tribunal. Croatia has also adopted the Witness Protection Act.

The Croatian Government remains grateful to the Tribunal and its experts for their valuable assistance, which will enhance the ability of Croatia's judiciary to prosecute war-crime cases in a professional and non-biased manner. Croatia feels prepared to take over part of the Tribunal's load as soon as this autumn and will continue its dialogue with the ICTY on this subject and cooperate in the field of training and technical assistance. Let me add that Croatia was glad to hear this morning that the Prosecutor intends to request the so-called Medak pocket case be transferred to Croatia. We appreciate that very much.

The Croatian judiciary has independently initiated a number of proceedings against the perpetrators of war crimes in Croatia. Those trials were and are still being closely observed by the ICTY, in accordance with Croatian legislation, which entitles the Tribunal's representatives to follow the proceedings and grants them access to court files. In addition, evidentiary material obtained by the ICTY can be used directly in domestic trials. Recent final verdicts in some of the most serious cases serve as confirmation of the professional standards achieved by the Croatian judiciary in this difficult and politically highly sensitive domain.

I would like to recall Croatia's position — outlined last October during the Security Council debate on this item — on two important issues that appear to have been somehow overlooked: compensation to those acquitted by the Tribunal and the enforcement of sentences as close as possible to prisoners' places of residence. Croatia believes that the Tribunal's jurisdiction should be amended by establishing an appropriate procedure that would enable it to award compensation to wrongly convicted, prosecuted or detained persons. As for enforcing sentences, I would like to recall that the basic international instruments in this area favour the incarceration of prisoners reasonably near their usual places of residence. The existing instruction, dating from 1993, envisages the enforcement of ICTY sentences outside the territory of the former Yugoslavia. Nevertheless, we find it important to reiterate the request that the Secretary-General review his predecessor's instructions regarding those arrangements.

With regard to the provisional release of accused who are awaiting the commencement of their trials, Croatia advocates the implementation of that measure whenever feasible. Croatia acknowledges with appreciation that the Tribunal has already been forthcoming on this issue in several cases. As affirmed in General Ademi's case, the Croatian Government will

ensure that other provisionally released citizens of Croatia will reappear for trial at The Hague and that they will not pose a threat to victims or witnesses. In any case, Croatia will meet its obligations in relation to the provisional release of accused.

The Tribunal cannot fulfil its historical role only by sentencing those who have been found guilty. For Croatia, the accurate historical and political record established through the Tribunal's jurisprudence is no less important than the legal record or the punishment of perpetrators. A person's guilt or innocence can be established only before the Court. Bearing that in mind, Croatia has transferred to The Hague all indicted persons within its reach. Those who are guilty must be punished, regardless of their ethnic background. Nevertheless, Croatia must question some of the qualifications in several indictments, which are not fully in line with the letter of our recent history or entirely in accordance with the General Assembly resolution on Croatia's occupied territories.

Justice will be fully served only if those who have suffered most find comfort and consolation in the recognition that everything they have experienced has not been in vain. It has been appropriately stated many times that the Tribunal performs the role of justice and of memory. Future generations, as they read the Tribunal's records on the events that have taken place on the territory of the Republic of Croatia, must be able to distinguish clearly between the aggressor and the victim; they must be able to comprehend what happened in the critical days of the homeland war, which remains one of the finest hours in my country's history.

In conclusion, let me state very clearly that, as a candidate country for membership in the European Union, Croatia is fully aware of the importance of cooperation with the ICTY and will continue to fulfil all related obligations to the best of its ability.

The President: I shall now give the floor to Judge Meron to respond to comments and questions raised.

Mr. Meron: I would like at the outset to thank the members of the Council for their support, their comments and their questions. I note in particular comments made with regard to the overarching principle of justice and accountability and to the denial of impunity, and in the context of the target date for the completion strategy.

I am also grateful to several members of the Council for their comments regarding the negative and dangerous effects of the current financial freeze. I hope that the membership at large will note the appeals voiced today by members of the Council to the membership at large to pay their arrears as soon as possible. What is involved here is not just a question of a technical payment; it is nothing less than the commitment of our United Nations community to principles of justice.

I would now like to turn to specific questions asked of me and of my colleagues. I will start with the representative of France. The question was, how and when would cases be transferred to national jurisdictions, and under what conditions? As I indicated very briefly in my report this morning, the situation is somewhat different with regard to the several States formed on the territory of the former Yugoslavia. As regards Bosnia and Herzegovina, the International Criminal Tribunal for the Former Yugoslavia (ICTY) has worked very hard with the Office of the High Representative and with governmental authorities in Bosnia and Herzegovina to help establish a special war crimes chamber in Sarajevo at the level of the State court that already exists there. As I pointed out briefly this morning, courtroom facilities should be operational in Sarajevo in January 2005. I voiced my confidence this morning — and I would like to repeat now — that that special chamber in Sarajevo would comply with the entire panoply of due process and human rights. I would like to hope that detention facilities in Sarajevo meeting international standards will be available in January, but if they are not available then, they will be available just a few short months later, so that cases can start moving to Sarajevo from the ICTY very early in 2005.

As regards Croatia, as I have pointed out, reports presented recently by the Organization for Security and Cooperation in Europe (OSCE) and by the Council of Europe still indicate some continuing problems with regard to due process and fairness, particularly in some instances of persistent bias concerning the ethnic identity of accused and of victims. We in the Tribunal are committed to working with the Government of Croatia to enhance the capability of Croatia's judiciary in order to be able to conduct in Croatia, before long, fair war-crimes trials that take full account of international human rights and due process. There is

room for optimism concerning the potential transfer of a limited number of cases to courts in Croatia — courts whose judges and prosecutors have received and continue to receive special training. We in the ICTY are very much involved in that training.

As regards Serbia and Montenegro, the prospects for the transfer of cases have, of course, been inevitably diminished by the past lack of cooperation between Serbia and Montenegro and the Tribunal. In that context, I would also like to mention the fact that a mission report prepared by the OSCE, based on the monitoring of trials throughout 2003, found that the national judiciary lacked full capacity to conduct war-crimes trials in accordance with universally accepted standards. We in the Tribunal remain committed to assisting Serbia and Montenegro in bringing the judicial bodies in that country up to international standards in terms of their capability to conduct fair war-crimes trials.

The representative of France also asked me about conditions under which we operate, and I would like now to briefly sum them up. The first condition, especially under the amended rule 11 bis, is fairness of the trial and the existence of due process in the receiving country. Then, of course, there is the exclusion of the death penalty. We consider in this context, under rule 11 bis, the gravity of crimes and the level of responsibility. Finally, we should take into account Security Council directives under recent Security Council resolutions which establish the benchmark of seniority. Under those directives, only lower-level and intermediate-level accused can be transferred to national jurisdictions.

In addition, may I remind the representative of France of the innovation introduced in the recent amendments of rule 11 bis, which enable us for the first time to transfer cases to jurisdictions outside of the former Yugoslavia when the country concerned has the necessary jurisdiction and when it is ready and willing to accept such cases. This provides a safety valve which can, in due course, be very important, because should there still be some kind of a deficit in due process in the judiciaries of the area itself, we would be able — should countries outside of the area be ready and willing — to transfer cases to those additional jurisdictions and thus help the completion strategy. I salute my colleagues in the International Criminal Tribunal for Rwanda, who showed us the way to model our own rule on the rule which they adopted in April.

Finally, on this point I would like to draw the attention of the Council to the fact that any speculation regarding the transfer of cases would be dangerous because, in every single case, the decision of whether or not to transfer a case would be made by a panel of judges — by a trial court — which would take into account all the facts, including the underlying rules which I have summarized for the representative of France.

I would now like to turn to a question asked by the representative of the United Kingdom with regard to the extension of the mandate of judges whose trials have lasted, at the very least — if I understood him correctly — six months by the time their mandate has expired. I believe that some action along the lines suggested by the United Kingdom will be necessary. Whether the cut-off length of the continuing trial should be six months, as the representative of the United Kingdom suggested, or not is a question on which we would want to reflect a little bit more. There is no question, however, that there is a very strong interest of the international community that judges who have not been re-elected and who are trying a case should be allowed to sit on that case until it is completed.

Now, some of the difficulties and dangers of disruption will be attenuated, but not eliminated by the proposal which we, the judges, have made to the Secretary-General and which he has accepted, to advance the elections to November 2004. This would enable us to have a more efficient assignment of judges, based on our knowledge at that time of who will stay on after November 2005 and who will not. This is also a good opportunity to remind the Council again that there will definitely be a need to extend the mandates of individual ad litem judges who will be involved in continuing cases at the time when their mandates, under the existing statute, come to an end in June 2005. It will also be necessary, if I may so suggest, to elect a new list of ad litem judges, just as we will be electing a new list of permanent judges. I have made a commitment to discuss this matter with the Secretary-General and with the Security Council in the fall.

The representative of Russia asked me about certain questions which will arise in connection with

the winding up of the Tribunal. More specifically, what do we propose with regard to a mechanism to substitute for existing mechanisms to deal with requests of convicted persons for pardons or commutations of sentence? An additional question pertains, of course, to a review mechanism which now exists under article 26 of the statute. Once the Tribunal has completed its work, it will be necessary to find some kind of a mechanism to deal with those questions. Presently, with regard to pardons and sentences, for example, the procedure lays down that this is up to the President of the Tribunal, after consultation with the bureau and the judges of the Chamber that originally sentenced the convicted person.

I think it is too early to create a mechanism to deal with these questions after the completion of the work of the Tribunal. In my own view, some mechanism will be necessary, but such a mechanism should be a minimalistic one that would not be costly. It must not cost too much money to the United Nations. For instance, one could envisage a panel of judges on whom one can draw when questions come up and who thus would not be actively or remuneratively employed. In other words, they would not be paid for just being on that panel's list, in order to economize on expenses to the United Nations.

The representative of Germany asked a question about the victory of Mr. Boris Tadic in Serbia. The members of the Council will, of course, understand that I would not be comfortable commenting on the elections which took place recently. All that I wish to say about that — and I take into account the comments made just a few minutes ago by the representative of Serbia and Montenegro on cooperation with the Tribunal being a matter of priority for the new Government in Belgrade — is that there is nothing that I could wish for more than full cooperation between the Government of Serbia and Montenegro and the Tribunal. This cooperation should be in deeds and in acts, and not just in words, and I offer to assist the new Government in any way it considers appropriate in order to serve that important goal.

The representative of Germany also asked about what third States can do in order to encourage cooperation between the Government in Belgrade and the Tribunal. All I would like to say on that subject is this: the more the international community and its members impress on the new Government the benefits and the importance of cooperation with the Tribunal, the better. I think the education of the public is extremely important; the training of the judiciary is also very important.

The representative of Spain asked me about progress in negotiating new agreements on the question of where our convicted persons could serve their sentences — the so-called enforcement of sentences agreement. I would like to say that the last agreement which we have concluded — I believe it was the tenth — was an agreement concluded with the United Kingdom, for which we are very grateful to that country. The Registrar of our Tribunal is continuously approaching various Governments, asking them to start negotiations on the conclusion of additional agreements. I would like to use this forum to appeal to Governments to conclude such agreements with the Tribunal. As the number of convicted persons increases, our capacity to find places where they can serve their sentences is definitely not adequate.

I believe that I have answered the questions that have been directed to me and I thank the members of the Council for their attention.

The President: I thank Judge Meron for his comments, responses and clarifications.

I now give the floor to Judge Møse to respond to comments and questions raised.

Mr. Møse: Let me also wholeheartedly thank all the members of the Security Council for the words of support and encouragement they addressed to the two Tribunals, and in particular to the International Criminal Tribunal for Rwanda (ICTR), which I am representing here. I noted in particular with great appreciation the expression of the need for all States to cooperate, including when it comes to the arrest of suspects and indictees who are at large, and to the need for all States to pay their financial contributions — a problem which was raised by all four of us in our introductory statements.

I turn now to some of the issues raised. I think I will start with the intervention of the representative of the United Kingdom, on a matter that was also mentioned by the representative of Germany: the issue of transfers. Of course, transfer under rule 11 bis is primarily a judicial decision; it is for the Chamber to decide based on a request by the Prosecutor in conformity with rule 11 bis. We are not yet there, but

we will soon be there. The question at present therefore relates not to the concrete evaluation of a case, but rather to the general framework. When it comes to that issue, there are two main problems. The first is the question of the death penalty in Rwanda. Here, I noted the statement of the representative of Rwanda concerning the reiteration of assurances on waiving the death penalty with respect to the cases transferred from the ICTR. To what extent guarantees are needed here and whether this is sufficient are currently under consideration.

The other issue will be, once the legislative framework has been clarified, to look into the issue of the institution to deal with such cases and the proceedings to be followed. Again, these are issues currently under review and it is a bit premature to go into them now, I think. Let me simply declare, however, that I am in agreement with those members of the Security Council that have stressed the need for confidence-building and support in connection with the transfer of cases. I note the request for such support by the Rwandan representative.

The question of pardon or commutation, raised by the Russian delegation, has already been fully and satisfactorily responded to by my colleague, President Meron. There is no need for me to go into that. I agree with his assessment.

Turning now to the issue raised by the Pakistani delegation, it is clear that we will never be able to deal with all 29 persons at large. We now have the 48 under control, so to speak. These cases are in progress, and we have another 10 waiting in our detention centre. That would bring us to 58. And then there is the issue of the maximum number, which in our completion strategy has been indicated at approximately 65 to 70, at least at the present stage. We will see how this develops as time passes, but, again, it is clear that we cannot deal with them all and, in order to avoid impunity — as vitally stressed by the Rwandan representative — it is important to find the right division of work between what we do at the international level and at the national level. The ICTR will concentrate on finding the accused who are most responsible, as explained by the Prosecutor, and then we will all have to assist the national jurisdiction in order to assist such jurisdictions in dealing with the other ones.

There was an issue raised by the Spanish delegation concerning new agreements. Since we last met on 9 October, France has ratified one enforcement agreement and Sweden has signed one that entered into force immediately.

Finally, I thank the Rwandan delegation for its comments and I have taken note of what was said in that statement. Again, I thank all the members of the Security Council for their words of support. We will bring them back with us to Arusha and they will be a great encouragement in our work in the days and months to come until the next time we meet here to report on the progress made.

The President: I thank Judge Møse for the comments and clarifications he has provided.

I shall now give the floor to Ms. Del Ponte, the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, to respond to comments and questions raised.

Ms. Del Ponte (*spoke in French*): I, too, wish to thank all members of the Security Council for their comments and assessments, and in particular for the message I have received from some that Karadzic, Mladic and Gotovina must be tried in The Hague. Of course, it does me, my colleagues and the entire Tribunal good to hear such a message.

President Meron answered all the questions and I have nothing to add, other than two important points. I note that Serbia and Montenegro intends to resume cooperation, and I do mean "resume" because, as I have reiterated since December, we have had none at all. The intention is a good one and I await immediate results. The situation is urgent. Belgrade can begin its cooperation forthwith. Of course, I need an interlocutor, since Belgrade has been unknown to me until now.

Secondly, with respect to the transfer of cases, when President Meron refers to cases under rule 11 bis, these are cases in which we already have indictments. I have about 100 cases in which I still have no indictment or in which I was prepared to issue one but did not do so after the Security Council adopted its resolution. These are so-called mid-level cases, but nevertheless involve defendants or suspects who are guilty of very serious crimes. We are considering transferring those cases to national judicial authorities. We are currently working with the Belgrade Prosecutor

on the transfer of a very important case on which I have already prepared an indictment, which I have not submitted, and the Belgrade Prosecutor has agreed to take on that case.

This will be a test. It will be a test with Belgrade, and it will be a test with Croatia. We eagerly await the beginning of work by the Special Chamber in Bosnia and Herzegovina: beyond the 11-bis cases — on which indictments exist — there are many other files on suspects, containing sufficient evidence to bring them to trial.

This is all to say that we remain firmly against impunity for the perpetrators of these crimes.

The President: I thank the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, Ms. Carla Del Ponte, for the clarifications she has provided.

I call next on Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda, to respond to comments and questions that have been raised.

Mr. Jallow: I thank you, Mr. President, and the other members of the Council for your support. A few issues have been raised which fall within my area; these focus mainly on the question of the transfer of cases. I base my response essentially on the explanations made by Judge Møse and by the President of the International Criminal Tribunal for the Former Yugoslavia, who explained the process of and conditions for transfer.

Essentially, we will not transfer any person for trial by a national jurisdiction unless both the Prosecutor and the Trial Chamber authorizing the transfer are satisfied that the person will stand fair trial in the jurisdiction to which he is being taken, and also that he will not suffer a greater penalty than he would otherwise have been exposed to at the Tribunal itself. We are working on the conditions: as I indicated, we are now drafting an agreement which spells out all the conditions which, in our view, make for a fair trial, based on the Statute's provisions and on other international instruments in force.

In that respect, I would like to confirm that the Rwandan Government has indicated to us that they would be ready to take the necessary measures to waive the death penalty with regard to all transferees.

An important element of transfers is the fact that the Tribunal always retains primacy over these cases, so when we transfer the cases we have to put in place a monitoring mechanism to ensure that the standards of a fair trial are being observed. We retain the right to take the cases back to the Tribunal if we are not satisfied that the standards are being observed. It is important to note that element.

In the case of the International Criminal Tribunal for Rwanda (ICTR), of course, the primary destination for the transfers would be Rwanda, because that is where the offences occurred. This would be subject to their fulfilling all the conditions to ensure a fair trial, the issue of penalty having been resolved. There are also other countries where some fugitives are resident. If such countries are willing and able to take up the prosecutions, we would encourage them to do so. There is a third category of States, in Africa particularly, where there are no fugitives resident and where offences were not committed, but which nonetheless have indicated, in principle, their desire to take on some transfer cases. That is a very encouraging sign that they are living up to their international responsibility to assist with the prosecution of these cases.

In terms of the timeline, at the Office of the Prosecutor we are starting work on these transfers as from now. Our expectation is that perhaps by the middle of next year we will have finished work on all the files that we want to transfer to national jurisdictions.

The representative of Pakistan has asked what happens if we cannot transfer these cases? I have said that I would come back to the Security Council and advise the Council of the situation. I cannot tell at present what options we would need to look when we come to that stage. I think, essentially, that we need to be guided by the principle that we should not let impunity prevail. Already, the completion strategy has resulted in a situation where we are letting off quite a number of people who would otherwise have faced prosecution. The difficulty of completing all those cases has made us focus on a specific category. If we find that we cannot even transfer those to national jurisdictions for prosecution, then the Security Council and the broader United Nations, together with the Tribunals, will have to look at another option that will ensure that impunity does not prevail.

Some of the countries in question would require material support. That would not be the responsibility of the Tribunals, because we would not be in a position to provide it. We could provide help in terms of capacity-building and training: taking in officers from national jurisdictions on attachment to us, training them and giving them the necessary experience. Individual countries wishing to take on cases would have to draw up lists of their requirements and approach the United Nations or approach other countries on a bilateral basis, with the support of the Tribunal, and try to obtain such assistance.

The issue of the Democratic Republic of the Congo was raised. Many of our indictees, as I said, are within that jurisdiction. A combination of factors has made it difficult to reach them so far, the primary one, I believe, being the problem of accessibility to the particular area of the country in which they are located. Nonetheless, one must say that communications with the Government of the Democratic Republic of the Congo have been a little bit difficult. We have had to resort to intermediaries. Even in the case I mentioned, of Yusuf Munyakazi, transfer was made possible largely by the intervention of an intermediary. So perhaps a more prompt and direct response from the Government of the Democratic Republic of the Congo would facilitate matters for us in this regard.

Finally, I have noted the issue of the prison incident in Mali, which was raised by the representative of Rwanda. The situation he described there is, of course, a deviation from the normal regime for persons who have been convicted and are now serving their sentences. But what happened there did not occur with the knowledge, the authority or the approval of the ICTR. Inquiries are now under way to determine fully all the circumstances that led to that situation.

With those remarks, Mr. President, I would like again to thank you and the other members of the Council for your support and your encouragement.

The President: I thank Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda, for the clarifications he has provided.

I would like to take this opportunity on behalf of the members of the Security Council to thank Judge Meron, Judge Møse, ICTY Prosecutor Del Ponte and ICTR Prosecutor Jallow for taking the time to brief the Security Council.

There are no further speakers on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 5 p.m.

United Nations S/PV.5000

Security Council
Fifty-ninth year

Provisional

5000th meeting
Wednesday, 30 June 2004, 3 p.m.
New York

President:	Mr. Baja	(Philippines)
Members:	Algeria	Mr. Baali
	Angola	Mr. Gaspar Martins
	Benin	Mr. Zinsou
	Brazil	Mr. Sardenberg
	Chile	Mr. Muñoz
	China	Mr. Cheng Jingye
	France	Mr. De La Sablière
	Germany	Mr. Pleuger
	Pakistan	Mr. Akram
	Romania	Mr. Motoc
	Russian Federation	Mr. Konuzin
	Spain	Mr. Yáñez-Barnuevo
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United States of America	Mr. Holliday

Agenda

Security Council mission

Briefing by the head of the Security Council mission to West Africa

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-40859 (E)

The meeting was called to order at 3.20 p.m.

Adoption of the agenda

The agenda was adopted.

Security Council mission

Briefing by the head of the Security Council mission to West Africa

The President: In accordance with the understanding reached in the Council's prior consultations, and in the absence of objection, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to His Excellency Sir Emyr Jones Parry, head of the Security Council mission to West Africa.

There being no objection, it is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

I would like to welcome the return of the members of the Council and of the Secretariat who took part in the mission to West Africa.

I would like now to give the floor to Sir Emyr Jones Parry, head of the Security Council mission to West Africa.

Sir Emyr Jones Parry: In September 2005, the United Nations has an important rendezvous with the Millennium Declaration, when a summit of the General Assembly will review progress in implementing the commitments we took on in 2000. The Millennium Development Goals can be achieved in most of Asia and Latin America, but we already know that Africa is way off track, threatening us with an overall failure in 2015 if we do not start making real breakthroughs now. Many African leaders have stepped up to the challenge in establishing the New Partnership for Africa's Development (NEPAD).

It is in Africa that honouring our commitments will affect most lives, and where failing to honour them will cause the most despair. We have a moral duty and a practical self-interest in helping their efforts to build a prosperous and stable continent. Without security in Africa, there will be no prosperity and stability. In the Security Council, we spend some 50 per cent to 60 per cent of our time on Africa. The new threat of weapons of mass destruction and terror always risks being spread where instability and conflict reign. Yet recent peace agreements offer millions of Africans the chance of a fresh start, and through structures like the African Union and the Economic Community of West African States (ECOWAS), Africans are building their own peacekeeping capacities. It is the responsibility of the Council to give them our fullest support.

Why West Africa? Because it is a region of key interest where the United Nations is investing heavily, where there is much promise, where there are vibrant societies, where there is rich potential and yet where there are fragile States that often lack infrastructure and absorptive capacities. Problems are shared, and often have contagious effects on neighbours. ECOWAS has demonstrated political and military leadership in the region and is striving today for increased economic cooperation, as a contribution to greater prosperity.

Hence the simple aims of the mission: to identify a coherent strategy for United Nations intervention across the spectrum; to encourage and support the efforts of ECOWAS; to identify how to build on current cooperation among United Nations missions and the United Nations bodies in the subregion; and to determine how we should assess overall progress towards the Council's objectives to further peace and regional security. All of those aims are set out in greater detail in the letter which you, Mr. President, sent to the Secretary-General on 15 June (S/2004/491).

During the visit, our focus was on underscoring the regional aspects as we visited individual countries and debated issues with their leaders.

Regional cooperation can clearly be a major catalyst for economic growth. Yet what we see time and time again is that legitimate free movement is inhibited by restrictions and by racketeers. Yet porous borders facilitate trafficking in arms, persons and illicit items in general. It is also clear that tackling problems successfully in one country sometimes only displaces the problem to a neighbour. Fighters who are unable to operate in one country and who have no apparent allegiance just move next door. A graphic analogy was used on one occasion: if you have got a cockroach in one room, there is no point in just fumigating the room. The only way to get rid of the cockroaches is to

fumigate the house. That is a simple analogy as to why a regional approach is needed.

The problem of refugees is affecting the whole region. Guinea, for example, has borne the burden of Sierra Leonean and Liberian exiles.

We went beyond the simple issues. We recognized that the horizontal aspects of concern to the Council do not respect national borders. Throughout the visit we tried to address the themes of human rights; governance; child soldiers; peace-building; small arms proliferation; disarmament, demobilization and reintegration; the role of women; poverty; HIV/AIDS; elections; and so forth. There is a raft of such issues. But they have common themes affecting all the countries and the region as a whole.

We were also keen to meet representatives of civil society and the non-governmental organizations working in the field. The briefing that we were given at the Arria-style meeting beforehand proved very useful.

Of course, the raison d'être of the Security Council is international peace and security. Without security and peace, there can be no sustainable development. But without development, stability and security become even more difficult. So we come to the self-evident truth: security and development tend to be interdependent. As well as the broader interest, we therefore looked at the situation in individual countries, discussed the key issues with ministers and demonstrated our support for the United Nations missions active in the region and for the work of the funds and specialized agencies.

We visited seven countries in eight days. It was right to start in Ghana, which holds the current chairmanship of ECOWAS. While there we also met the ECOWAS secretariat. We moved on successively to Côte d'Ivoire, Liberia, Sierra Leone, Nigeria, Guinea-Bissau and Guinea (Conakry). We were also briefed in Dakar by Ahmedou Ould-Abdallah, Special Representative of the Secretary-General for West Africa.

The formal written report should be circulated later this week — initially in English, I think, with translations to follow. Meanwhile, I would like to share some quick impressions of the discussion in the individual capitals.

In Accra, Mr. Chambas, Executive Secretary of ECOWAS, set out the agenda for the work of ECOWAS. Frankly, it is impressive and fits well with the Council's priorities. It is dominated by a political and military role, with the intention now being to prepare a standby force of 6,500. ECOWAS throughout is playing a constructive role in the region, especially through the Ghanaian-Nigerian efforts to facilitate dialogue in Côte d'Ivoire. Economic aspects are less advanced, but they offer considerable potential.

The visit to Abidjan was timely and important. We expressed concern at the present political impasse and the non-functioning of the Government, and we delivered tough messages to all the parties, to the Government, to President Gbagbo, to parliamentarians and to civil society. We emphasized the cardinal importance of the Linas-Marcoussis Agreement and brought together its signatories for the first time since that Agreement was signed. We were given commitments, and it is our view that we should monitor them carefully and hold accountable anyone who is obstructive. The goal is clear: it is to proceed peacefully to elections in 2005 based on Linas-Marcoussis.

In Monrovia, Liberia — a country starting afresh and picking itself up from the devastation wreaked by Taylor for so long — we were impressed by the commitment of Chairman Bryant and his team and by the improved security situation, thanks to the United Nations Mission in Liberia (UNMIL). But progress is clearly going to be a big challenge. In stressing the need to build peace and institutions, we emphasized that there could be no impunity for those who faced indictment.

We spent 24 hours in Freetown — but I would like to say that our first thoughts today must be sympathy for the families of those who perished in yesterday's tragic helicopter accident, individuals who were dedicating themselves to peace and to rebuilding Sierra Leone, and our deepest sympathy must go to the Government of Pakistan.

In Sierra Leone, there has been a lot of progress. The military and police forces are gradually strengthening, and we seem on course to drawn down the United Nations Mission in Sierra Leone (UNAMSIL) as previously agreed by the Council. But getting Sierra Leone to point where it is capable of managing its own security and defence is going to be only a first challenge. The State is fragile, and building its institutions, particularly developing a prosperous

economy, one which at the moment is heavily dependent on the presence of the international community, is going to be very difficult.

In Abuja, we had an outstanding meeting with President Obasanjo and Foreign Minister Adenji. We shared impressions on regional aspects and on the role of ECOWAS. But we were also able to discuss the positive developments in the Sudan and the humanitarian crisis in Darfur. We are encouraged by President Obasanjo's commitment and his belief in the role that the African Union could play.

The President also gave us a magisterial presentation on the importance of NEPAD. He emphasized the importance of the international community's supporting the initiative through a much increased flow of resources, improved trade access and debt relief. But he also set out a clear context of development and security and stressed the need for a partnership covering conflict, security, governance, democracy and economic development. He also briefed us on the useful progress made in the 25 June meeting, which he chaired between Presidents Kabila and Kagame.

We found Guinea-Bissau evidently the poorest country which we visited, yet we were told that the conditions were visibly better than when our colleagues visited last year. We welcomed there the presence of Ambassador Kumalo and of two colleagues from the Economic and Social Council, who joined us to underline the strength of United Nations support as a whole for Guinea-Bissau.

The country is starting from the bottom, having emerged from turmoil, and the Government has been in office only for some 50 days. But there were encouraging signs, with a President and a Government committed to progress. The International Monetary Fund (IMF) is likely to agree a special post-conflict programme in September, so we encourage the positive trends and underline to the military the importance of political control and the need for substantial restructuring and retirement within the military establishment.

The challenge for the United Nations system and for Guinea-Bissau's development partners will be to support these positive trends and facilitate an absorptive capacity and administrative infrastructure, both of which are, at the moment, cruelly lacking.

In Conakry, we spent an hour with President Conté and discussed regional issues. The President welcomed the dialogue, noted that Guinea had suffered most from regional conflict, and expressed his personal commitment to working for peace.

Throughout the visit, we were very impressed by the dedication of United Nations peacekeepers and by the United Nations country teams. We were able to explore a range of issues with the different Special Representatives. Coordination is in place to deliver effective, coherent policies worked out in conjunction with host Governments. The Special Representatives of the Secretary-General have a key role in leadership and direction and also in presenting the United Nations to the host country. What is vital, it seems to us, is that the United Nations be seen to be supporting policies of which the Government has ownership and that it should be perceived as a friend, as an enabler, and that at the same time that it should do this without fostering permanent dependency. We felt that the representatives were achieving those goals.

I should like to thank my colleagues for their contributions and for the tireless energy which they displayed throughout a long mission, and our particular thanks are due to the Secretariat.

If I may, I should now like to offer some conclusions, starting with a statement of the blindingly obvious: the United Nations and the international community have to stay the course in West Africa. This will require a sustained effort, but we cannot afford to give up anywhere. We cannot afford the risk of failing States, or even failure in parts of individual States.

But building peace, establishing institutions, developing absorptive capacities, putting in place the rule of law and holding free and fair elections are much more difficult than trying to stop a conflict. The risk of slipping back into conflict is always greater in the first two years or so after the end of conflict, so vigilance and sustained commitment by the United Nations and its entire family, by the international financial institutions, by ECOWAS and all the other elements of the international community, will, in our view, remain essential.

But to get there, economic development will also be essential. It is essential to underpin, support and harness the assets and economic potential of the region. Some continuing degree of dependency culture is natural and inevitable, but sovereign Governments

must exercise control and assume their responsibilities quickly, so that sustainable development and peace go hand in hand and are secured.

It seems to us that the regional approach is absolutely essential, for the reasons I have tried to set out. The countries and the different issues are so intertwined that regional success is a prerequisite for stability in one country. Therefore it also makes sense for us to support those countries in the region which demonstrate commitment to good governance and to human rights. Sometimes they are overlooked in our concentration on the problem cases. It was suggested to us that, if there is another mission next year that we ought to go and see more of the successful countries, those not in conflict.

We should not be too shy in taking action to avert conflict. If the warning signs are there, we should be prepared to act, and be prepared to act sooner. The Mixed Commission on Bakassi, for example, chaired by Special Representative Ould-Abdallah, is a good example of conflict prevention and of better value and more effective use of funding in the long run than peacekeeping.

Within the region, the Special Representatives meet regularly, and it is important that the regional synergies of individual peacekeeping operations are better developed. But what we have to remember is that the peacekeeping operations are very tightly resourced indeed, with no reserves and little flexibility. They are very much operating at the maximum of what is possible.

More people are killed by small arms in Africa than by any another type of weapon. The arms trade causes instability. The present moratorium needs to evolve into a more aggressive attack on all aspects of this trade, something which I hope the Council can come back to soon.

By necessity, most of our United Nations effort is targeted at post-conflict situations. But clearly more effective conflict-prevention policies are needed, and that is not only in West Africa. Again, that is something which I hope the Council could address substantively, and soon.

In all this, we were struck that ECOWAS is a force for good, and we should look to see how we can give it further support.

Are there imaginative ways in which we can help with the training and even the funding of a standby force? It seems to me that we need a better definition of the relationship between United Nations peacekeeping and regional efforts. Perhaps the High-Level Panel will help us on that. Certainly, the special event which the incoming Romanian presidency intends to hold on 20 July to look at the relationship with regional organizations is a step in that direction.

Development, security and stability are essential if peace is to endure in West Africa. That will demand the sustained effort of the international community as a whole and all the interventions that we can bring to bear. By that, of course, I do not mean military intervention; I am talking about the range of peaceful support which can be given to Governments.

Sometimes in this city, perhaps in this country, some dispute the role and the relevance of the United Nations. Those of us who last week saw first-hand the work of the United Nations in West Africa and who now have a reinforced impression of the problems which the United Nations is tackling there have no doubts about the primary importance of the United Nations and of its work in the field. It is a simple truth, it seems to me, that we need to tackle these problems in West Africa if only because, if neglected, they could become problems for all of us.

That is my contribution, but the mission was very much a team effort. If I may, Mr. President, I would like to ask you to invite Ambassador De La Sablière and Ambassador Gaspar Martins to add their personal impressions, too.

The President: I thank Ambassador Jones Parry for his briefing.

Mr. De La Sablière (France) (*spoke in French*): I have little to add to the briefing by Ambassador Jones Parry, whom I wish to commend for the brilliant way he led the mission.

Since I have been invited to take the floor, I shall simply underline a few points, most of which have already been raised. First, with respect to Security Council missions, it is not easy for us to organize them due to our schedules. However, based on my experience, having now participated in three of them, I think they are very useful, first of all, because they promote better understanding of the Security Council's concerns and policies as defined in the Council's

resolutions and statements. I think that referring to and explaining those texts to concerned parties is a positive contribution.

Secondly, I think the missions are useful for communicating messages on the implementation of those texts: whether we are satisfied, or, on the contrary, concerned.

And finally, I believe that the missions — perhaps not the least of their contributions — also considerably enrich the Council, because in 10 days one can acquire a great deal of information and get a better idea of the situation on the ground. I think that, following a mission, all of us are greatly enriched. With that in mind, we are considering a mission to Central Africa in the autumn. This has already been agreed upon in principle.

With respect to the Council's relationship with the Economic Community of West African States (ECOWAS), which my colleague Ambassador Jones Parry just referred to, I was struck by the similarity of our analyses and the complementarity of our actions. I think the Council has been right to cultivate that relationship; we should continue to do so because our approaches are fully complementary.

With respect to the regional approach, I shall limit myself to noting that I am especially concerned by the problem of the circulation of small arms and former combatants. Different countries are not moving towards the settlement of their crises at the same pace. Take, for example, Sierra Leone, which has just emerged from crisis. One of the concerns of the Sierra Leonean authorities is that the process of settling the conflict in the country should not be adversely affected by transfers of weapons and combatants who might come into Sierra Leone. It is a fact that the situation there is not developing at the same pace, and there is therefore a special concern at the regional level to try to better deal with the problem of small arms and the movement of former combatants. An arms moratorium exists, but there is no doubt it is insufficient because weapons are still in circulation. I do not know in what framework, but the Security Council should, in cooperation with ECOWAS, return to this issue. It is a difficult issue because it is not easy to be effective in this area. But I think that it is necessary to return to it, as Ambassador Jones Parry suggested.

I shall comment only briefly on individual situations. The report to be issued discusses them in detail and makes recommendations. I would simply say that on Côte d'Ivoire there are some encouraging signs, but I think we have all come back rather concerned. The Security Council has delivered its messages, which are contained in its resolutions and statements. I think the Council has done that clearly and firmly. It must now follow the situation closely. Those who hinder implementation of the Linas-Marcoussis Agreement or continue to attack the United Nations should bear their responsibility, as the Security Council stated in its presidential statement of 25 May 2004 (S/PRST/2004/17).

We shall follow the situation closely. Interesting commitments have been made. We should monitor them closely. Those commitments relate to the restoration of the normal functioning of the Government and to adopting by 28 July three texts provided for in the Linas-Marcoussis Agreement: laws on nationality, property and the electoral commission. In the presence of the President of the National Assembly and the Prime Minister, President Gbagbo said that if those laws were not adopted by 28 July, a special session would be held in August to do so. We shall follow that situation very closely. Commitments were made also regarding the possible establishment of a United Nations radio station and the signing of a headquarters agreement.

In Liberia, we saw an increase in the strength of United Nations force in a country which has emerged from a war that completely destroyed it. We can see the vastness of the task. But as for me, what I saw rather encouraged me.

In Sierra Leone, the real problem is the exit problem and what will happen after the United Nations force leaves. It should not destabilize or jeopardize Sierra Leone. Clearly, the problem is economic in nature. Thus, economic growth — a current goal — which is due to the current United Nations presence, should not be lost.

With respect to Guinea-Bissau, substantial efforts are being made. Those efforts should continue, with the assistance of the international community. In that connection, the fact that in this specific case, we conducted a mission together with our colleagues from the Economic and Social Council, including Ambassador Kumalo, has been very useful, and we were able to work together in that country. I think that in Burundi we could continue the experiment.

I, too, should like to conclude by thanking the Secretariat for all its efforts and for having made the mission possible. It was quite a difficult mission, because we visited many countries in only a few days.

Mr. Gaspar Martins (Angola): The mission was successful, and one of the main reasons is that we had very good leadership in the person of Ambassador James Party. The mission was timely; we visited countries where action was needed to break deadlocks and to make peacekeeping or peace-building situations more effective. We went to deliver messages from the Security Council, which can be accomplished either through our presidential statements or through direct contacts with the main stakeholders — particularly with the peoples of these countries. That is because peacekeeping and peace-building must be carried out principally by the main actors, the peoples of the countries that we visited. I think we managed to deliver those messages.

In the case of Côte d'Ivoire — where the peacekeeping operation seemed to be more endangered by the deadlock that persisted with the continuing lack of dialogue between the Government of President Gbagbo and his opposition — I think I can say that the meeting we held with all the stakeholders with whom it was possible to meet during a day-and-a-half-long mission also attained that objective. Right now, some results are beginning to emerge in Côte d'Ivoire. Thanks to the messages and to the firmness with which they were delivered, the deadlock has been broken and United Nations Radio — which is very much needed to pass on United Nations messages to the people of Côte d'Ivoire — already seems to be back on the airwaves since we left Côte d'Ivoire. Moreover, the dialogue between President Gbagbo and his opposition seems to be under way in Abidjan, which means that our mission seems to have produced the results we had intended: making the peacekeeping effort and our investment in peace effective and making our results tangible. That can be accomplished only through the firmness we demonstrated in delivering the messages.

We went to West Africa to say that we needed a different environment throughout the region. The messages that were delivered — whether they concerned child soldiers or the trafficking in small arms and light weapons — were communicated in a way that enabled us to express clearly the Council's concerns about those problems.

We had the opportunity to meet with the leaders of the peacekeeping operations in both Liberia and Sierra Leone. That was one of our key concerns, since peacekeeping can be more seriously affected in those two countries by the lack of progress in the first country we visited, Côte d'Ivoire. The processes now under way in both Sierra Leone and Liberia — particularly the process of disarming former combatants — seem quite well established. We hope that we have sent the correct messages and that we can continue to assess progress in the future when we look at specific mandates.

There is a situation that is of some concern to us: in Sierra Leone, the United Nations Mission in Sierra Leone (UNAMSIL) seems to be more or less ending its mandate. We need to seriously consider this situation, where the objectives that we defined have not yet been fully attained. I am sure that it will be reviewed properly in the Council at the appropriate time. The current situation requires more peace-building in order to complete the peacekeeping operation. Unless that is handled properly, we may face a situation that we could have avoided. But such a situation can still be avoided.

The country we left with more hopes is Guinea-Bissau. The fact that, in a happy coincidence, the Council mission visited Guinea-Bissau at the same time as the Economic and Social Council served to reinforce a message that peacekeeping and peace-building, or country-building, go together. In Guinea-Bissau, there has been very clear progress, judging from the situation we saw there last year. That progress can be reinforced only if there is commitment by the international community; here, the way must be pointed out by the Council.

It was also fortunate that, during the mission's stay in Guinea-Bissau, a mission of the International Monetary Fund was reviewing the situation in the country. The assessment — which was shared with members of the Council — is that there is a clear effort aimed at improving the governance of the country, and that it is being taken seriously by the newly elected Government. We had meetings with members of civil society; with parliamentarians, particularly the President of Parliament; and with the main political parties. There is cohesion on what needs to be done. In particular, there is hope that the Council, representing the international community, will be prepared to reward Guinea-Bissau if there is constancy and

perseverance in attaining the objectives that have been defined.

Another important factor that was a key to our success was that we had the opportunity to meet with the leadership and the main stakeholders of these countries, including — as already indicated by Ambassador Jones Parry — the leaders of two of those countries, President Obasanjo and President Kufuor, and representatives of the Economic Community of West African States, a subregional organization that has been paying a very high level of attention to the need to maintain peace and stability in the region in order to enable its economies to develop. ECOWAS is an organization that was created particularly to deal with economic development, but it has taken peace and stability seriously and is fully engaged with the Council and with the international community to bring about the solutions that are required either to break deadlocks or to provide the right answers to problems whenever they occur.

We will have the opportunity to discuss this, but the report which has been eloquently presented here this afternoon by Ambassador Jones Parry illustrates very well what we did for seven days. Although we spent just one day in each capital, in that one day quite a bit was achieved that may make our Council more effective and even more the key organ responsible for peace and security in a region that very much needs it. The Council is moving in that direction.

Mr. Konuzin (Russian Federation) (*spoke in Russian*): My delegation thanks our colleagues, Ambassadors Jones Parry, De La Sablière and Gaspar Martins, for their briefing on the Security Council mission to West Africa. I am sure that the visit was a useful one. This year, unfortunately, my delegation was unable to participate in the mission. Therefore, following the oral briefing, I should like to ask a few specific questions.

With respect to the Republic of Côte d'Ivoire, did the constitutional Government of the country ask for assistance from the Security Council in settling the conflict with the rebels? If so, what was the nature of the request and how did the mission respond to it?

As to the Republic of Guinea-Bissau, what was the mission's impression of the military's preparedness for restraint and not to interfere in the country's constitutional regime? The mission met with the military last year and was assured that the military respected the Constitution, and yet there was a coup d'état a few months later.

In Liberia, following thousands of murders, the mass torture of women, and crimes committed in connection with the recruitment and use of child soldiers, did the mission feel that at least one criminal may be punished in actual fact and not, as we have seen thus far, with mere threats?

Sir Emyr Jones Parry (United Kingdom): I think that the first thing to say is that there will be a written report available very soon. I think it would be rather good if we had an opportunity to consider that, to have experts look at it, and perhaps to schedule some sort of open discussion on it, which might include the countries of the region. Let us have a transparent debate — I would very much favour that.

The report, when you see it, goes into far greater detail, obviously, than the three of us have sketched out, but it does explain the extent of what we are doing in Côte d'Ivoire. It raises some issues. Of course, what the mission is doing in Côte d'Ivoire is with the full agreement of the Government, and in everything we were talking to the Government about it was all in the best of atmospheres. We were very clear about what we expected, but I detected — especially by the end of the day — a very cooperative response and appreciation of what the United Nations was trying to do and what the Security Council mission actually intended. .

In terms of Guinea-Bissau and the military, I should say that, for those who have sat in briefings with the military in other countries, it was a salutary experience. We were in a fairly large room with lots of strip lighting, only one of which worked. It was near darkness. We had, I think, 12 military officers and the chief of the defence staff of Guinea-Bissau, and by agreement with the mission, I did a 10-minute presentation on the importance of political control of the military and the importance of restructuring, and discussed aspects which all our military face in terms of adaptation to tomorrow's challenges. In a very frank response, the chief of the defence staff explained why there was a coup and made it clear that it was the last thing they wished, but that they had got to the point where, in their view, the interests of the country were being put at risk.

What is significant about that coup is that the Economic Community of West African States was on the ground within 24 hours and that, within another 24 hours, a path for the restoration of civilian control had

been established. We did not get the impression, I think, that this was a military that wanted to hang on to power. Quite the opposite, there is a new Government after elections and all that has happened in the space of nine months. Thus, I think we came away believing in the commitment to political control. I do not think we were necessarily convinced that the steps that need to be taken on restructuring are actually going to be easy or rapid, but certainly we set out what we thought was necessary.

Child soldiers were a theme throughout and, certainly in the case of Liberia, we hammered this consistently. Thus, we addressed the horizontal themes, as I said at the beginning, as best we could. That does not mean that, on each of them, we got full satisfaction in every place — of course not — but we did register our total opposition to what had taken place, our wish especially that the people who recruit child soldiers be prosecuted, and our belief that the problems of disarmament, demobilization and reintegration for child soldiers are particularly acute. Again, we recognized in the case of Liberia that some 300 children had been reintegrated into schools and with their families as a result of the United Nations effort, but child soldiers are one of the abominations of West Africa and it will require a substantial effort to tackle them.

The President: On behalf of the Council, I should like to express gratitude and appreciation to all the members of the Security Council mission, which was very ably led by Ambassador Jones Parry, for the manner in which they discharged their important responsibility on behalf of the Council.

Let me say a few words before we finally end this meeting, as the Philippines ends its presidency today for the month of June. I would say that June has been a hectic, albeit undoubtedly historic month for the Security Council. June is historically a significant month, with events taking place which shape nations all over the world. We have, over the past month, reached important milestones, for which the Security Council can be proud.

Also, today we have reached the plateau of the five thousandth meeting of the Security Council, on a topic that deserves great attention from the international community: West Africa. This milestone proves that the Security Council has been an effective instrument for the preservation of international peace and security over more than five decades of work.

On behalf of my team, I would like to thank all delegations for their cooperation and for their support of the Philippine presidency. We have enjoyed their camaraderie and friendship. Despite some difficulties and some differences among us, we have recognized and appreciated one common thread among all of us, and that is that all delegations have the singular goal of making the Security Council work. That predisposition by everyone is refreshing and enriching and is the key to making the Council effective.

I would also like to express my profoundest gratitude to the members of the highly motivated and energetic team of the Security Council Secretariat Branch. We thank them for their boundless understanding and patience. They are the oil that has lubricated the smooth running of the Philippine presidency. Our thanks also go to our interpreters for their patience in navigating between the rhyme and the reason of our interventions, and to our verbatim reporters for their skill in separating what is chaff from what is grain.

Finally, I cannot end without relating a tale, taking up the theme of Sir Emyr's cockroaches. It may be of some relevance in the Council. This is the story of a precocious boy and his love of experiments. One day the boy decided to perform an experiment. He got the biggest and most robust frog, which he had determined to be capable of leaping the farthest. First, the boy cut off one front leg and then instructed the frog to jump. It did. Next, he cut off the second front leg. Again, he ordered the frog to leap, and it did. Then he cut off one of the hind legs. He forthwith commanded the frog to jump. The frog stumbled a bit, but it was still able to make a short leap. Finally, the boy severed the second hind leg. This time, when the boy shouted at the frog to jump, it refused to leap in any way. The boy even repeated the command several times. Not even a feeble attempt to jump was elicited. The young boy concluded that when you cut off the four legs of a frog, it loses its sense of hearing. That has threatened us in the Council.

I wish Ambassador Motoc and the Romanian delegation all the best as they assume the presidency tomorrow.

There are no further speakers. The Security Council has thus concluded its consideration of the item on its agenda.

The meeting rose at 4.15 p.m.

United Nations S/PV.5001

Security Council

Fifty-ninth year

Provisional

5001 st meeting

Friday, 9 July 2004, 12 noon

New York

President:	Mr. Motoc	(Romania)
Members:	Algeria	Mr. Benmehidi
	Angola	Mr. Gaspar Martins
	Benin	Mr. Adechi
	Brazil	Mr. Sardenberg
	Chile	Mr. Muñoz
	China	Mr. Zhang Yishan
	France	Mrs. D'Achon
	Germany	Mr. Gansen
	Pakistan	Mr. Mahmood
	Philippines	Mr. Baja
	Russian Federation	Mr. Smirnov
	Spain	Mr. Yáñez-Barnuevo
	United Kingdom of Great Britain and Northern Ireland	Mr. Davie
	United States of America	Mr. Fendrick

Agenda

The situation in Bosnia and Herzegovina

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-41861 (E)

The meeting was called to order at 12.20 p.m.

Expression of thanks to the retiring President

The President: As this is the first meeting of the Security Council for the month of July, I should like to take this opportunity to pay tribute, on behalf of the Council, to His Excellency Mr. Lauro Baja, Jr., Permanent Representative of the Philippines to the United Nations, for his service as President for the month of June. I am sure I speak for all members of the Council in expressing deep appreciation to Ambassador Baja for the great diplomatic skill with which he conducted the Council's business last month.

Adoption of the agenda

The agenda was adopted.

The situation in Bosnia and Herzegovina

The President: I should like to inform the Council that I have received letters from the representatives of Bosnia and Herzegovina and Italy, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Kusljugić (Bosnia and Herzegovina) took a seat at the Council table, Mr. Spatafora (Italy) took the seat reserved for him at the side of the Council Chamber.

The President: The Security Council will now begin its consideration of the item on its agenda.

The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2004/522, which contains the text of a letter dated 29 June 2004 from the Permanent Representative of Ireland. Members of the Council also have before them document S/2004/545, which contains the text of a draft resolution submitted by France, Germany, Italy, Romania, the Russian Federation, Spain, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution, as orally revised in its provisional form in the course of prior consultations, before it. If I hear no objection, I shall now put the draft resolution to the vote.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour:

Algeria, Angola, Benin, Brazil, Chile, China, France, Germany, Pakistan, Philippines, Romania, Russian Federation, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America

The President: There were 15 votes in favour. The draft resolution, as orally revised in its provisional form, has been adopted unanimously as resolution 1551 (2004).

The Security Council has thus concluded the present stage of its consideration of the item on its agenda. The Security Council will remain seized of the matter.

The meeting rose at 12.30 p.m.

United Nations S/PV.5002

Security Council

Fifty-ninth year

Provisional

5002nd meeting

Tuesday, 13 July 2004, 10 a.m.

New York

President:	Mr. Motoc	(Romania)
Members:	Algeria	Mr. Baali
	Angola	Mr. Gaspar Martins
	Benin	Mr. Adechi
	Brazil	Mr. Sardenberg
	Chile	Mr. Muñoz
	China	Mr. Zhang Yishan
	France	Mr. De La Sablière
	Germany	Mr. Pleuger
	Pakistan	Mr. Akram
	Philippines	Mr. Baja
	Russian Federation	Mr. Konuzin
	Spain	Mr. Oyarzún
	United Kingdom of Great Britain and Northern Ireland	Mr. Thomson
	United States of America	Mr. Danforth

Agenda

The situation in the Middle East, including the Palestinian question

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04-42278 (E)

The meeting was called to order at 10.15 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in the Middle East, including the Palestinian question

The President: In accordance with the understanding reached in the Council's prior consultations, and in the absence of objection, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Terje Roed-Larsen, Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General.

It is so decided.

I invite Mr. Roed-Larsen to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by Mr. Terje Roed-Larsen, Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General. I now give him the floor.

Mr. Roed-Larsen: On Monday, 28 June, Ruth Zahavi was standing on a sunny sidewalk opposite the kindergarten where her son Afik went every day. In a fraction of a second, while Ruth was waiting with the little boy to cross the street, Afik, three and a half years old, was hit in the legs by fragments of a Qassam rocket launched by Palestinian gunmen from the Gaza Strip. Afik bled heavily, in front of his mother, and lost consciousness before an ambulance could reach him. He died shortly afterwards.

Mordechai Yosepov, 49 years old, was sitting on a bench in front of the kindergarten in this quiet neighbourhood of Sderot when he was instantly killed by fragments from the same Qassam rocket. Ofik's mother, Ruth, survived and will now have to live with this tragedy. No words we say today will undo or even ease the pain that terrible moment of 28 June has inflicted on her, for the rest of her life.

A week later, on Tuesday, 6 July, Dr. Khaled Saleh, a university professor of engineering, and his 16-year-old son, Mohammed, were in the safety of their apartment in Beit-Ilma refugee camp in Nablus. A shootout erupted between Israeli troops and two Palestinian militants they had been trying to arrest. At 3 a.m., the Israeli Defence Forces (IDF) called on the residents to leave the house. Khaled went to the window and shouted that his door was stuck, that he was a university professor and that there were children in the house. He was shot in the chest.

A short time later, his son Mohammed was also shot. They both bled to death in front of the rest of their family, as the Israeli troops did not allow a medical team into the building. The IDF later said that it was impossible to let the medics in because of the ongoing gun battle.

This is the gruesome and heartbreaking reality of the Palestinian-Israeli conflict. Ofik, Ruth, Mordechai, Khaled and Mohammed are no exceptional cases in this unfolding tragedy. Since our last briefing to the Council, violence has continued on the ground, claiming the lives of 61 Palestinians and seven Israelis, and wounding more than 580 Palestinians and 71 Israelis.

Unless both parties take immediate action to halt this terrible bloodshed and resolve their differences over the negotiating table, I am afraid that, by our next briefing to the Council, more people — who are probably now crossing Israeli streets or sitting in their homes in Palestinian cities — will have been killed.

So far, since September 2000, 3,499 Palestinians and 949 Israelis have been killed. More than 34,300 Palestinians and 6,000 Israelis have been injured in the daily bloodshed.

The diary of violent acts is painfully long.

On 27 June, Hamas and Al-Aqsa Brigades militants detonated explosives in a tunnel they had dug underneath a military outpost in the settlement bloc of Gush Katif in the southern Gaza Strip, killing one Israeli soldier and injuring five. In retaliation, Israel conducted missile strikes against targets in Gaza City, hitting a media office affiliated with Hamas in a six-story building in Gaza City, and a metal workshop. Israel also began a bulldozing operation around the outpost where the soldier had been killed, demolishing Palestinian houses and uprooting fields and crops. A

full closure was declared on all crossings and checkpoints in the Gaza Strip.

After the killing of Ofik and Mordechai in Sderot, and the injuring of nine other Israelis, Israel responded by firing three missiles at targets in and near Gaza City, hitting metal workshops. Israel also began a major operation in the northern Gaza Strip, near Beit Hanoun, early on 29 June, using tanks and bulldozers to encircle the city, and demolishing a number of Palestinian houses in order to prevent Palestinian militants from firing Qassam rockets into Israel. At least 20 Palestinians have been killed to date in that operation. Ten of them were killed and at least 20 wounded on 8 July alone. As Israeli troops continued uprooting trees and installations in the area and moved into Beit Hanoun, more than 1,000 dunums of crops were destroyed, though the final extent of the destruction is still unknown. As of today, Beit Hanoun remains isolated, and the operations continue.

On 8 July, five Israeli soldiers, among them two officers with the rank of colonel, were injured in the Gaza Strip when Palestinians fired an anti-tank missile and detonated a roadside bomb near their jeep.

Israeli incursions and arrest campaigns also continued over the last three weeks and culminated in a large-scale IDF operation in the old city of Nablus and the nearby Balata refugee camp between 23 and 27 June. A curfew was imposed and maintained for three consecutive days. A total of 10 Palestinians were killed during that operation, among them the commanders of the Fatah, Islamic Jihad and Hamas military wings in the city. A second major arrest operation took place in Nablus on 6 July, resulting in the deaths of four Palestinians and one Israeli soldier. A shootout erupted as IDF troops were trying to arrest the Nablus commander of the Popular Front for the Liberation of Palestine (PFLP) and his deputy. The troops used a missile and engaged in heavy shooting in that densely populated area, killing not only the two militants but also Dr. Khaled Saleh and his 16-year-old son Mohammed.

Parallel to those operations, one Israeli was killed in a shooting attack on his truck in the northern West Bank on 29 June. A second Israeli was shot dead and his wife injured in a gunfire attack on their car near the village of Yabad in the northern West Bank on 4 July, for which responsibility was claimed by the Fatah-affiliated Al-Aqsa Brigades.

Then, on 11 July, for the first time in four months, a bombing hit Tel Aviv during the morning rush hour, killing a woman and injuring 30 Israelis, five of them critically. Al-Aqsa Brigades again claimed responsibility for the bombing, stating that it was in retaliation for the assassination of two of its top commanders as well as that of other Palestinians in Israeli incursions in the West Bank and Gaza Strip.

Almost at the same time, four Palestinians were killed in the Gaza Strip as a car exploded near the settlement of Netzarim in the central Gaza Strip. Palestinian sources claimed that an explosive device planted by Israeli troops had caused the blast. The IDF claimed that the incident had probably been caused by a bomb transported in the car by Palestinian militants. Also on 10 July, a 15-year-old girl who was shot by IDF troops in Rafah several days earlier died of her wounds.

This is the dreadful log of blood and tears we have compiled since Mr. Prendergast's most recent briefing to the Council, just three weeks ago.

House demolitions also continued throughout the reporting period. IDF troops destroyed nine houses and two five-story buildings in the Khan Yunis refugee camp late on 28 June, as well as two shops in the town of Idhna near Hebron. Twelve houses were demolished in Khan Yunis in the Gaza Strip on 30 June. Another six houses were demolished in Rafah on 2 July; two houses were demolished — one in the Gaza Strip and one in the West Bank — on 4 July; and five houses were demolished in Ramadin, in Hebron, on 5 July. At least 20 houses were reported to have been demolished in the Khan Yunis area on 7 July, and yet another 26 houses were reported demolished in a renewed bulldozing operation in Khan Younis on 11 July, which would bring the total number of houses demolished to almost 90 over the past three weeks. In addition, in the latest house demolitions in Khan Younis, a wheelchair-bound man of more than 70 years of age was crushed to death, as he failed to escape his house in time.

Closure continued to have an impact on the lives of hundreds of thousands of Palestinians. Despite announcements of intent, restrictions on freedom of movement remained in place. Only occasionally, some restrictions were eased slightly, such as movement between Tulkarem and the surrounding governorates of Nablus, Ramallah and Qalqiliya, thanks to the reopening of the Anabta gate in the first week of July.

However, a number of important checkpoints were closed at times, restricting Palestinian traffic between villages and towns and into Jerusalem. In the context of the Israeli operation around Beit Hanoun, Abu Houli checkpoint was closed completely on 30 June and 1 and 2 July. Palestinian movement in the Gaza Strip was severely affected by the operation, which effectively made access to Beit Hanoun impossible.

Curfews were imposed not only in Nablus, where one lasted for three days during the major operation there between 23 and 27 June, but also in Jericho, Hebron, Kfar Deek in the Salfit area, Kafr Malik near Ramallah, Ramallah Yamoun in the Jenin district, and Deir Ghassana, as well as Beit Rima in Ramallah. On 27 June, the IDF also imposed a curfew on the town of Yamoun near Jenin and searched houses, using police dogs. Explosives and gas were used, which — according to Palestinian sources — destroyed and polluted a number of water wells in the town. The operation continued until 28 June. Renewed curfews were also imposed in Nablus, Huwwara and Beit Sira near Ramallah on 30 June. In Beit Sira, the curfew was maintained for three and a half days until 4 July. On 30 June, the two major checkpoints of Kalandiya and Al-Ram were closed, preventing access to Jerusalem from the West Bank. Further curfews were imposed in Al-Khadr, Jericho, As-Saf and Wadi Ma'ali in Bethlehem, and Kfar Laqif in Qalqiliya on 3 July.

These disturbing events reflect the lack of progress in the political process. I have repeatedly cautioned both parties against the fallacy that a military solution to this conflict is possible. These events, and the events of the last three years, support the broad international consensus that only a political settlement can stop the bloodshed and bring the lives of Palestinians and Israelis back to normalcy. That is why the international community has devised its road map for peace, which the Council adopted in resolution 1515 (2003), calling on the parties to implement it.

Unfortunately, both parties have chosen to ignore this call. The situation brings to mind the words of the historian Barbara Tuchman, who once stated that a noticeable phenomenon throughout history, regardless of place and period, is the pursuit by many Governments of policies contrary to their own interests.

The Palestinian Authority, despite consistent promises by its leadership, has made no progress on its core obligation to take immediate action on the ground to end violence, combat terror and reform and reorganize itself. The Israeli Government has made no progress, either, on its core obligation to immediately dismantle settlement outposts erected since March 2001 and to move towards a complete freeze of settlement activities.

Progress on the implementation of Palestinian reform continues to be slow and cannot be explained except by the lack of political will to advance along that road. The Palestinian Authority has decided to begin holding local elections as early as this fall. The commitment to holding elections is a step towards creating more democratic local institutions, and as such should be encouraged. However, the Authority has not yet responded to repeated calls by the international community to reform its electoral institutional framework in order to meet the minimal international standards. It has appointed a partisan body to supervise local elections instead of the existing Central Elections Commission. The Commission, which should prepare and supervise voter registration, is endangered by the Authority's intention to launch a parallel registration process without the necessary impartial supervision. As the Quartet envoys informed Prime Minister Qurei last week, the international community stands ready to support well-prepared elections. However, it continues to be of great concern to the international community that minimal international standards be met with regard to the preparation and conduct of those elections.

The most successful areas where reform has proceeded well are those of finance and public administration. Steady progress has been made in the area of financial reform, with salaries for members of the security services deposited into bank accounts, rather than paid in person, since March 2004. This is very much to the credit of Prime Minister Qurei and Finance Minister Fayad, who work in the most difficult of circumstances. Some progress has also been made in the areas of local Government reform and the restructuring of the Ministry of the National Economy, though high-level political interference in appointments at the Ministry continues to contradict the Basic Law. In addition, little progress has been made in the important field of judiciary reform.

Regarding the crucial area of security reform, the President of the Palestinian Authority has lent only nominal and partial support to the commendable Egyptian efforts aimed at reforming the ailing

Palestinian security services, consistent with the road map. Those efforts have the full support of the Quartet and the international community and represent the best, and probably the last, chance to salvage whatever remains of Palestinian security capabilities. These efforts are necessary to put an end to the steadily emerging chaos in Palestinian areas, to restore law and order and — most importantly — to re-establish the Palestinian Authority as a fully credible partner for the international community.

All those who yearn for peace have already and repeatedly urged President Arafat, in public and in private, to take immediate action to restore this diminished credibility. The Quartet as well as the Arab peace partners have also been active in trying to bring about the necessary reforms. The required elements of reform are clear to all: the consolidation of all security services into three main bodies, rejuvenating its leadership, and putting them under the authority of an effective interior minister who reports to an empowered prime minister. The Palestinian prime minister and cabinet need to be empowered in a way that enables them to make the necessary changes and to carry out the executive tasks entrusted to them by the Palestinian Basic Law. They must be given the power not only to make decisions but also to implement them. Unfortunately, there is so far no sign of any of those measures being taken.

In this context, we cannot but observe that the leader of the Palestinians remains confined to his headquarters in Ramallah in difficult conditions, under de facto house arrest. However, this is not an excuse for passivity and inaction. Decisive, robust and enduring action, particularly in the critical field of security reform, should lead to more vigorous international engagement in the process and to an environment conducive to more bold leadership, consistent with the requirements of the road map and the Egyptian initiative.

Unfortunately, there is no sign of constructive movement at this point in time — far from it. Despite a well-intentioned Prime Minister, the paralysis of the Palestinian Authority has become abundantly clear and the deterioration of law and order in Palestinian areas is steadily worsening. Clashes and showdowns between branches of Palestinian security forces are now common in the Gaza Strip, where the Palestinian Authority's legal authority is receding fast in the face of the mounting power of arms, money and intimidation. Lawlessness and gang rule are becoming common in Nablus, the mayor of which resigned a few months ago in protest against the lack of Palestinian Authority support for the legal authorities. The perceived Palestinian Authority abdication of responsibility has led many Rafah residents to take matters into their own hands, up to the point where some of them established a private checkpoint, preventing Palestinian Authority officials from crossing to Egypt or from entering Rafah. Jericho is actually becoming the only Palestinian city with a functioning police. This collapse of authority cannot be attributed only to the Israeli incursions and operations inside Palestinian towns. The Palestinian Authority is in deep distress and is in real danger of collapse.

Israel's lack of compliance on the sensitive issue of settlements is equally frustrating. Territory lies at the heart of this conflict. It has already been established by the Mitchell Commission that settlement expansion was the most important factor undermining Palestinian trust in the peace process and leading to its breakdown. The drafters of the road map were careful to require from Israel an immediate dismantling of all outposts erected since March 2001, in order to send a clear and positive message to the Palestinians that a paradigm shift is taking place. A full and comprehensive freeze on settlement activities was to be achieved as the security situation improved, but that has not been the case.

According to a report by the settlement watch group Peace Now, there are now 124 outposts on the ground. The report states:

> "These outposts are in continuous growth, in the number of caravans, facilities and inhabitants. Settlement and outpost infrastructure are also rapidly widening and improving.... The building of infrastructure and permanent structures is continuing at the outposts, despite the Government's recent declaration that it intends to dismantle a number of outposts. Only three outposts were dismantled in the last months".

That is no paradigm shift; it is movement in reverse. Settlement expansion has to come to a complete stop.

As members are aware, on Friday, 9 July, the International Court of Justice issued its advisory opinion on the legality of the construction of the barrier in the West Bank. The Court found that

> "Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in Occupied Palestinian Territory, including in and around East Jerusalem, [and] to dismantle forthwith the structure therein situated".

The Court further called on the United Nations to "consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall".

Also on the same subject, the Israeli High Court of Justice issued a ruling on 30 June 2004 ordering the Government of Israel to change the course of approximately 30 kilometres of the barrier to the north-west of Jerusalem. The Court based its decision on the grounds that security needs, although legitimate, do not justify the damage done to the Palestinian populations disproportionately affected by the barrier's construction. The ruling said:

> "Only a separation route based on the path of law will lead the State to the security so yearned for.... The route ... injures the local inhabitants in a severe and acute way while violating their rights under humanitarian and international law".

The Secretariat has fully cooperated with General Assembly resolution ES-10/14 of 8 December 2003 regarding this issue. The Secretary-General has submitted a detailed report on the construction of the Israeli barrier and on its impact. He has also provided the Court with an update of that report, and he has communicated all relevant documents at the disposal of the Secretariat to the Court at The Hague. The Secretary-General has communicated the Court's advisory opinion to the General Assembly, which had initially requested it. It is now up to the appropriate bodies of the United Nations to deliberate on that opinion and to decide on next steps. As has been the case in the past, the Secretariat is prepared to provide support and follow-up on decisions taken in that regard by United Nations organs.

The impact of the conflict on the population goes beyond deaths and injuries; the violence also affects the economies on both sides and the living conditions of Israelis and Palestinians alike, spreading the misery further and deeper. There is very little I can add to what has already been said about the impact of the current situation on the Palestinian economy. A recent World Bank report details the misery prevailing in the Palestinian territories and describes the current recession as "the worst in history": worse than the great depression and the recent Argentinean financial crisis. The humanitarian situation in the occupied Palestinian territory continues to be severe, despite the best efforts of donor and humanitarian assistance organizations. Unemployment now stands at 28 per cent, according to the World Bank, with an estimated total of 230,000 unemployed people. Statistical evidence suggests that, on average, a working Palestinian supports four persons, bringing the number of those affected by unemployment to 920,000 — almost a third of the total Palestinian population in the occupied Palestinian territory. Poverty rates are rising again in 2004: half of the Palestinians now live under the poverty line. More than two thirds, or 68 per cent, of the residents of Gaza live in poverty.

The Palestinian Authority's fiscal situation is also fragile. The Palestinian Authority has difficulties paying the salaries of its own employees and maintaining a minimal level of social services. The International Monetary Fund has reported that the Palestinian Authority treasury received $24 million per month on average over the past four months, compared with the $54 million budgeted. According to the Palestinian Monetary Authority, the sharp decline in donor budget support cut expenditures on public services such as health, education and social protection by $15 million. Palestinian banking sector data indicate that credit extensions increased to almost $1.2 billion at the end of the first quarter of 2004. The data also suggest that credit extension to the Palestinian Authority rose by 38 per cent and stood at $312 million. That reflects the rise of the Palestinian Authority's use of the banking sector to meet its financial needs owing to falling donor support early this year. Needless to say, a financial collapse would significantly exacerbate the emerging chaos in the occupied Palestinian territory.

The violence has also taken its toll on the Israeli economy in a recession that has been described by many as the worst in Israel's history. In the first years of the peace process, the Israeli economy boomed as Israeli manufacturers became able to enter new overseas markets and to shift parts of their operations abroad. There was also a boom in foreign direct investment, which reached unprecedented levels. Growth, however, started slowing from 1996 onwards

until 2000. A year of hope and d positive developments in the peace process with the Israeli withdrawal from southern Lebanon and the Camp David negotiations in 2000 saw an impressive growth rate of 7.5 per cent. Interestingly, growth was particularly strong during the first nine months of the year and began reversing in the last quarter, once the intifada had started in September 2000.

Gross national income reflects the poor growth of the economy. Thus, for example, total gross national income fell from $107.9 billion in 2001 to $105.2 billion in 2002. Per capita income also declined. According to the Ministry of Finance, gross domestic product per capita — another indicator of the country's standard of living — declined by 7 per cent in cumulative terms during the period 2001-2003. As the Ministry put it, "This is an unprecedented decline in the standard of living".

Despite that gloomy picture, there is hope. Despite the suffering, the bloodshed and the misery, a majority of both Palestinians and Israelis still have faith in the possibility of reconciliation and peace. The latest Israeli polls, published in June, show that 68 per cent of the Israelis support the withdrawal from Gaza and that 54.1 per cent of Israelis support negotiations with the Palestinians aimed at achieving peace. Similarly, even though 53.5 per cent of Israelis feel sympathetic towards settlers who may have to leave their homes, a majority continues to favour the evacuation of settlements if that is necessary in order to achieve a peace agreement. In that context, it is also worth reminding ourselves of the finding of a large Israeli research project conducted during 2002 that a clear majority of settlers would leave their homes if compensated adequately and that only a fraction — 2 per cent — would consider resisting an evacuation order in transgression of Israeli law.

On the Palestinian side, a large majority of 72 per cent continues to favour reconciliation between the two peoples. An overwhelming majority of 92 per cent continues to support calls for fundamental political reform in the Palestinian Authority, giving support to the international community's policy of insisting on tangible reform measures in the Palestinian Authority.

Hope is brought not only by opinion polls. Developments in the diplomatic arena also offer us many opportunities. If seized, they would revive the peace process and lead to the achievement of our shared goal: an end to the occupation that started in 1967 and the establishment of a viable, independent and sovereign Palestinian State living side by side with Israel in peace and security.

As I noted earlier, there was no tangible progress related to the parties' implementation of their commitments under the road map. And it is in that context that the Israeli Prime Minister, Ariel Sharon, announced his important initiative to withdraw the Israeli armed forces from Gaza and parts of the West Bank and to evacuate all settlements in the Gaza Strip as well as four settlements in the northern West Bank.

I am fully aware of the scepticism surrounding that initiative. However, I have chosen to take the opposite position and have argued before the Council that this so-called unilateral withdrawal initiative offers a unique opportunity to revive the peace process. As I outlined in my April briefing to the Council, if the withdrawal is implemented the right way, it could lead to the achievement of our shared goal.

The Quartet, led by Secretary-General Kofi Annan and the top European Union officials, Chris Patten, Javier Solana and the then Foreign Minister and President of the Council of the European Union, Mr. Brian Cowen, as well as United States Secretary of State Colin Powell and Russian Foreign Minister Sergei Lavrov, supported the withdrawal initiative at their meeting at United Nations Headquarters on 4 May 2004. The two Arab countries most involved in Palestinian-Israeli peacemaking, Egypt and Jordan, came out publicly with the same position. A withdrawal from Gaza, bringing the occupation of the Strip to an end, is consistent with the calls for bold steps we have made to Prime Minister Sharon since the beginning of his term. It is also consistent with detailed proposals presented by Secretary-General Annan to the Quartet last summer.

Yet some Israelis and Palestinians still express reservations about that initiative and its possible impact on the peace process. Some Palestinians fear that the withdrawal from Gaza and parts of the West Bank is a smokescreen that would divert world attention from implementation of the road map and lead, instead, to a lengthy and open-ended process focused exclusively on the tiny Gaza Strip. That, they fear, would only lead to Israel further expanding its settlements in the West Bank and eliminating the possibility of a viable and contiguous Palestinian State. Others fear that the

withdrawal from Gaza would not lead to the end of the occupation of the area. Rather, they fear that Israel would retain tight control over Gaza's borders and waters, sealing it off and separating it completely from Israel and therefore severely damaging its economy, de facto turning it into a prison for 1.5 million Palestinians. In Israel, some fear that a full withdrawal from Gaza would turn it into an incubator for terrorism and a launching pad for attacks against Israel, possibly using weapons even more deadly than the home-made Qassam rockets. Those fears are not baseless. Yet they are often and unnecessarily used as a pretext for passivity and inaction.

I have already stated before the Council that the withdrawal from Gaza and parts of the West Bank could be carried out the right way or the wrong way. The right way, as the Quartet principals defined it in their 4 May statement, is a full, clean and complete withdrawal leading to the end of the occupation of Gaza. Similar steps in the West Bank should accompany it. The withdrawal should take place within the framework of the road map and the two-State vision. It should also be fully coordinated with the Palestinian Authority and the Quartet.

If the withdrawal were implemented the wrong way, the fears to which I referred would almost certainly come true. But fears, though legitimate, should not prevent us from moving ahead. Rather, they should guide our common action. They should prompt us to exercise more caution and to be more vigilant, but they should never become an excuse for inaction and passivity.

For, if the withdrawal were implemented the right way, it would open up an unprecedented opportunity for progress towards peace. The end of the occupation of the Gaza Strip would free half of the Palestinians from occupation and demonstrate to the Israelis that evacuating settlements is both possible and compatible with Israel's interests. It would also demonstrate that withdrawal, not occupation, brings security. It would create momentum for the movement towards Palestinian independence, re-establish trust between Israelis and Palestinians and restore dialogue in place of violence.

Ending the occupation of Gaza would be the most important step taken since the mutual recognition of Israel and the Palestine Liberation Organization. If all goes well, it would be a model that could take the parties a long way towards a full end of the occupation that started in 1967, hand in hand with the recognition of the State of Israel and of its right to exist and live in peace and security with its neighbours.

The Quartet envoys met last week with Palestinian Prime Minister Qurei in Ramallah. We emphasized to the Prime Minister that our support for the withdrawal from Gaza and parts of the West Bank does not in any way affect our insistence on the fulfilment of outstanding obligations related to the West Bank. Nothing in our support for the withdrawal initiative lessens our focus on the rest of the obligations included in the road map and reiterated by the Quartet principals in their 4 May statement in New York.

In the same meeting, Minister Saeb Erekat asked us how we envisage the link between the Gaza withdrawal and the implementation of the road map. The link is simple and clear. The requirements for the success of the withdrawal initiative are the very same requirements involved in the implementation of the road map. If both parties commit themselves to the tasks at hand — which would make the withdrawal from Gaza and parts of the West Bank a success — they would be able to implement the road map in a speedy and orderly fashion.

Allow me to elaborate on that point. For the withdrawals to succeed, each of the parties will have to carry out a crucial task. Israel's task is to withdraw fully and completely from the Gaza Strip, transferring control to a reformed and reorganized Palestinian Authority, with reliable Palestinian security arrangements supervised by third parties acceptable to both Israel and the Palestinian Authority. There is no way around that task. A partial withdrawal or a withdrawal while retaining control would not constitute an end of the occupation and would therefore defeat the entire purpose of the withdrawal. Withdrawing without establishing a security regime supervised by reliable third parties would be a recipe for renewed conflict. Security for Israel and freedom for the Palestinians are not only compatible with one another: they are actually intertwined and interdependent.

The Palestinian task is to act immediately and without delay to reconstitute its security forces as stipulated in the road map and as detailed and operationalized by the Egyptian initiative. Security reform, as is the case with the entire reform agenda

enjoys the support of a majority of Palestinians, and the Palestinian Authority has the duty to implement it in a speedy manner. As Quartet envoys informed the Palestinian Prime Minister in their meeting in Ramallah on 7 July, the time for drafting security plans has passed, as we already have a well-developed security plan that enjoys the support of the international community. That plan has been submitted to the Palestinian Authority by the Government of Egypt and is supported by the Quartet. Now is the time for action. The credibility of the Palestinian Authority is at stake, and its interests as well as the interests of the Palestinian people will best be served by decisive action on its part to reform and reorganize itself and regain the full credibility it once enjoyed.

The international community also has a crucial task at hand, and that is to take the parties by the hand along the challenging and laborious road leading to peace, as described by the Quartet principals in their 4 May statement and in the road map. Since our last briefing, Quartet envoys have met twice, at Taba on 23 June and at United Nations headquarters in Jerusalem on 7 July. They also met with representatives of the donor community and with the Palestinian Prime Minister. Quartet representatives — together with Norwegian, Japanese and World Bank officials — will meet in mid-July with the Israeli Foreign Minister, Mr. Silvan Shalom, to discuss the same topics. The envoys will continue to monitor closely the situation on the ground and the progress that will, hopefully, be made by the parties. They have decided to remain actively engaged and to intensify their consultations to that effect.

The envoys will start preparations for a meeting of the Task Force on Palestinian Reform to be held during this summer, followed by a meeting of the main body of the donors, the Ad Hoc Liaison Committee for the Coordination of International Assistance to Palestinians — known as the AHLC — in September, with a meeting of the Quartet principals, which is also to be held in September here in New York, to review progress and determine the future course of action.

Let me now turn to the situation between Israel and Lebanon.

Although an atmosphere of tension and potential instability continues to exist along the Blue Line, the situation has remained relatively calm since the last briefing to the Council. Israel, however, has continued to violate Lebanese airspace. On 29 June, 15 Israeli aircraft overflew the Blue Line 11 times. Shortly afterwards, Hizbullah fired three rounds of heavy machine gun fire. The direction of fire and its point of impact could not be ascertained. No anti-aircraft fire was reported to have taken place during the reporting period.

The Secretary-General has repeatedly stated that one violation does not justify another. He has repeatedly called on Israel to cease its violations of Lebanese airspace. He has also repeatedly called on the Government of Lebanon to exert its control over all its territory and to ensure full compliance with international law.

It is important that all parties exercise restraint and avoid the escalatory cycle of violations. Such restraint is required in order to maintain stability along the Blue Line. It is my hope that the relative calm that has prevailed along the Blue Line in the last month is reflective of the parties' renewed desire for a greater degree of stability in the area.

Unfortunately, no progress has been achieved on the Syrian-Israeli track. I sincerely hope that the two countries will find an appropriate way, in the near future, to resume their suspended peace negotiations. That will contribute to creating an environment conducive to comprehensive peace in the region.

As I said earlier, in this conflict the fears of the sceptics are not baseless. It is clear to me that if Israelis and Palestinians do not carry out the aforementioned tasks, those fears will come true. Yet, again, that is no excuse for inaction or passivity. Quite to the contrary, it is reason for intensified and even more determined action in order to direct events down the right path.

I admit that it would be much more comfortable for all of us if we could design a perfect plan, pass it to the parties and then watch while they implemented it in good faith. But we do not have that luxury. I also admit that it would be more comfortable for us to sit in our chairs, express our doubts about the chances of success of this or that plan, show sympathy for the suffering of the victims of the conflict on this or that side, indulge in arguments over the asymmetry between the occupier and the occupied or over the immoral equivalency between self-defence and terrorism, and then wrap up and go out to resume our normal, easy lives and rest peacefully in our untroubled moral self-righteousness.

It would be comfortable to do that. But then again, at the same time, more Mohammeds and Afiks get killed in the safety of their homes, or in the arms of their parents on their way to kindergarten. It is very simple indeed: when we fail, people get killed. We therefore have only two options before us: either we act all the time — patiently and tirelessly trying to find a way out of this conflict — or we sit and watch as more people bleed. The choice is for each of us to make.

The President: I thank Mr. Roed-Larsen for his comprehensive briefing.

In accordance with the understanding reached in the Council's prior consultations, I should now like to invite Council members to informal consultations to continue our discussion of the subject.

The meeting rose at 11.10 a.m.

United Nations S/PV.5003

Security Council

Fifty-ninth year

Provisional

5003rd meeting

Wednesday, 14 July 2004, 1.15 p.m.

New York

President:	Mr. Motoc	(Romania)
Members:	Algeria	Mr. Bencherif
	Angola	Mr. Antonio
	Benin	Mr. Adechi
	Brazil	Mr. Tarrisse da Fontoura
	Chile	Mr. Acuña
	China	Mr. Zhang Yishan
	France	Mrs. D'Achon
	Germany	Ms. Iwersen
	Pakistan	Mr. Chaudhry
	Philippines	Mr. Mercado
	Russian Federation	Mr. Dolgov
	Spain	Mr. Colomina
	United Kingdom of Great Britain and Northern Ireland	Mr. McKenzie Smith
	United States of America	Mr. Fendrick

Agenda

The situation in Somalia

Report of the Secretary-General on the situation in Somalia (S/2004/469)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-42481 (E)

The meeting was called to order at 1.15 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in Somalia

Report of the Secretary-General on the situation in Somalia (S/2004/469)

The President: I should like to inform the Council that I have received a letter from the representative of Somalia, in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Hashi (Somalia), took a seat at the Council table.

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them the report of the Secretary-General on the situation in Somalia, document S/2004/469.

After consultations among the members of the Security Council, I have been authorized to make the following statement on behalf of the Council:

"The Security Council, recalling its previous decisions concerning the situation in Somalia, in particular the statement of its President of 25 February 2004 (S/PRST/2004/3), and welcoming the report of the Secretary-General of June 2004 (S/2004/469), reaffirms its commitment to a comprehensive and lasting settlement of the situation in Somalia and its respect for the sovereignty, territorial integrity, political independence and unity of the country, consistent with the purposes and principles of the Charter of the United Nations.

"The Security Council reiterates its firm support for the Somali national reconciliation process and the ongoing Somali National Reconciliation Conference in Kenya, launched under the auspices of the Intergovernmental Authority on Development (IGAD), and commends the IGAD leaders and in particular the Government of Kenya for their efforts in the search for peace in Somalia. The Council also commends the international observers for their active engagement in the process.

"The Security Council welcomes the outcome of the fifth, sixth and seventh IGAD Ministerial Facilitation Committee meetings on the Somali National Reconciliation Conference, which demonstrated the coherent regional approach and commitment of IGAD member States to national reconciliation in Somalia.

"The Security Council welcomes the launching of phase III of the Somali National Reconciliation Conference and encourages all parties to continue in their ongoing efforts to move the process forward and agree on a durable and inclusive solution to the conflict in Somalia and the establishment of a transitional federal Government for Somalia.

"The Security Council recognizes that, while the establishment of a transitional federal Government will be an important step towards establishing sustainable peace and stability in Somalia, much effort will lie ahead if this objective is to be achieved. The Council emphasizes the need for the new Government, once formed, to engage with the international community and to use the transition period constructively for the purposes of reconciliation, stability and reconstruction.

"The Security Council reiterates that the Somali parties should abide by and implement expeditiously the Eldoret Declaration of 27 October 2002 on the cessation of hostilities (S/2002/1359) and calls on the Somali parties to continue working towards a comprehensive security arrangement for Somalia.

"The Security Council reiterates that the Somali parties themselves bear the main responsibility for achieving a comprehensive ceasefire throughout Somalia. The Council calls on the Somali parties to fully implement the

ceasefire, to ensure security and to resolve their differences through peaceful means.

"The Security Council condemns those who obstruct the peace process, in this regard fully supports the warning of the IGAD ministers, and reiterates that those who persist on the path of confrontation and conflict will be held accountable. The Council will continue to monitor the situation closely.

"The Security Council welcomes the decision by the African Union to dispatch a reconnaissance mission to prepare the ground for the deployment of military monitors to Somalia and calls upon Somali leaders to cooperate with this initiative.

"The Security Council calls on the international community to continue to support IGAD in its facilitation of the Somali National Reconciliation Conference, and calls on the donor countries and organizations to contribute to the Conference, the United Nations Trust Fund for Peace-building in Somalia and the United Nations Consolidated Inter-Agency Appeal for Somalia.

"The Security Council reiterates serious concern regarding the humanitarian situation in Somalia and calls on Somali leaders to facilitate the delivery of much-needed humanitarian assistance and to assure the safety of all international and national aid workers.

"The Security Council reiterates its concern over the continued flow of weapons and ammunition supplies to Somalia, commends the work of the Monitoring Group established pursuant to resolution 1519 (2003) of 16 December 2003, and urges relevant States and entities to comply scrupulously with the arms embargo and to cooperate with the Monitoring Group.

"The Security Council commends the work of Mr. Winston Tubman, the Representative of the Secretary-General, welcomes his visit to the region in support of the IGAD-sponsored Somali peace process, and encourages him to continue his facilitation efforts.

"The Security Council welcomes the Secretary-General's meeting with the Somali parties on 8 July 2004 in Mbagathi, Kenya, and requests the Secretary-General to keep the Council regularly informed on developments at the Somali National Reconciliation Conference and to make timely recommendations on what additional measures could be taken by the Council in support of the Conference and its outcome."

This statement will be issued as a document of the Security Council under the symbol S/PRST/2004/24.

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 1.25 p.m.

United Nations S/PV.5004

Security Council

Fifty-ninth year

Provisional

5004th meeting

Thursday, 15 July 2004, 1.40 p.m.

New York

President:	Mr. Motoc	(Romania)
Members:	Algeria	Mr. Djeffal
	Angola	Mr. Antonio
	Benin	Mr. Zinsou
	Brazil	Mr. Tarrisse da Fontoura
	Chile	Mr. Llanos
	China	Mr. Cheng Jingye
	France	Mr. Floreani
	Germany	Mr. Pleuger
	Pakistan	Mr. Mahmood
	Philippines	Ms. Taguiang
	Russian Federation	Mr. Dolgov
	Spain	Mr. Oyarzún
	United Kingdom of Great Britain and Northern Ireland	Mr. King
	United States of America	Mr. Fendrick

Agenda

The situation in Afghanistan

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-42670 (E)

The meeting was called to order at 1.40 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in Afghanistan

The President: I should like to inform the Council that I have received a letter from the representative of Afghanistan, in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Farhádi (Afghanistan) took a seat at the Council table.

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

After consultations among members of the Security Council, I have been authorized to make the following statement on behalf of the Council:

"The Security Council, taking note of the decision announced by the Joint Electoral Management Body (JEMB) established by the Afghan authorities, welcomes and supports the holding of the presidential election in Afghanistan on 9 October 2004. This election is a key requirement under the Bonn Agreement of December 2001 and represents a new milestone in the process of constructing a democratic, stable and prosperous Afghanistan.

"The Council further takes note of the decision of the JEMB to hold parliamentary elections in April 2005. The Council understands that technical and logistical reasons made it impossible, as reported by the Secretariat, to hold simultaneous presidential and parliamentary elections by September of this year. The Council stresses the importance of using the remaining months to ensure that the necessary preparations are completed and the conditions met for free and fair elections according to the JEMB's timetables.

"The Council calls upon the Afghan Government and the international community to maintain and intensify, ahead of the presidential and parliamentary elections, their efforts to strengthen the national army and national police, to accelerate the disarmament, demobilization and reintegration (DDR) process, and to support the Afghan Government in its strategy to eliminate opium production. The Council stresses the importance of accelerated progress on DDR in order to create a safer environment for the election process, including security for electoral staff and Afghan voters, to help ensure a free and credible outcome to the electoral process, and otherwise to help create a secure environment in which the rule of law is respected. The Council reiterates its call upon all eligible Afghans to fully participate in the registration and electoral processes for the presidential and parliamentary elections.

"The Security Council encourages Afghan authorities to enable an electoral process to provide for voter participation that is representative of the national demographics including women and refugees and, in this regard, calls for the determination of practical modalities for the registration and participation of the Afghan refugees in Iran and Pakistan in the ongoing Afghan electoral process.

"The Council acknowledges the commitment by NATO, Operation Enduring Freedom and Member States to assist in establishing a secure environment for the conduct of elections and calls upon the international community to further increase its security assistance to Afghanistan. The Council also acknowledges the intention of the European Union and bilateral donors to contribute to the conduct of free and fair elections and notes ongoing discussions within the Organization for Security and Cooperation in Europe on a possible contribution in that context.

"The Security Council stresses the importance of providing the necessary funding for the timely implementation of the JEMB's timetables. It acknowledges the contribution of

the international donor community in support of the elections, calls upon donors to implement their pledges and encourages the international community to consider further commitments to meet the costs for elections as inclusive as possible.

"The Security Council reaffirms its full support for the Special Representative of the Secretary-General and for the United Nations Assistance Mission in Afghanistan and reiterates the central and impartial role of the United Nations in the international efforts to assist the Afghan people in consolidating peace in Afghanistan and rebuilding their country.

"The Security Council will remain seized of the matter."

This statement will be issued as a document of the Security Council under the symbol S/PRST/2004/25.

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 1.45 p.m.